This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Br. 6200.41 Bd. July, 1891.

Harvard College Library

THE BEQUEST OF

CLARKE GAYTON PICKMAN,

OF BOSTON, MASS.

(Class of 1811).

Received 13 July, 1860.

CELEBRATED TRIALS

360.22

CONNECTED WITH

THE ARISTOCRACY

IN THE

Relations of Private Life.

BY

PETER BURKE, ESQ.,

OF THE INNER TEMPLE, BARRISTER-AT-LAW.

LONDON:
WILLIAM BENNING & CO., 43, FLEET STREET.
1849.

2 4 6 2.22

Bru 6200.41 ...60, Jan. 13.
Gift of
C. G. Pickman,
of
Boston
(Class of 1811.)

LONDON:
PRINTED BY MYERS AND CO., HART STREET, COVENT GARDEN.

CONTENTS.

	PAGE
The Trial of Sir Edmond Knevet	1
The Trial of Lord Stourton and his Servants for Murder	3
The Poisoning of Sir Thomas Overbury	8
The Trial of the Rev. Robert Hawkins	25
The Assassination of Mr. Thynne	38
The Trial of Captain Donellan for the Murder of Sir Theodosius Boughton	49
The Trial of Beau Feilding for Bigamy	63
The Two Trials of Lord Mohun	79
The Trial of Lord Grey of Werke	98
The Trial of Captain Goodere for the Murder of his Brother	123
The Trial of Lord Byron	143
The Trial of the Duchess of Kingston for Bigamy	160
The Trial of Earl Ferrers for Murder	193
The Mysterious Case of William Barnard and the Duke of Marlborough	229
The Anglesea Ejectment Case	249
The Crimes and Vicissitudes of William Parsons, the son of a Baronet	271
The Trial of Spencer Cowper for Murder	284
The Trial of Mungo Campbell for shooting Lord Eglinton	311
The Manslaughter of Sir Charles Pym	316
Philip Stansfield the Parricide	326
The Trial of Philip Earl of Pembroke	347
The Abduction of Miss Wharton	361
The Duel between Mr. Thornhill and Sir Cholmeley Dering	367
The Trial of Dr. Dodd	369
The Trial of the Earl of Kingston for Shooting Colonel Fitzgerald	382
The Assassination of Miss Reay by the Rev. Mr. Hackman	393
Robert Lord Balfour of Burleigh	427
The Parricide by Miss Blandy	429
The Fraud upon Lord Clarendon	433
The Trial of James Stuart of Dunearn for shooting Sir Alexander Boswell	439
The Earl of Cardigan's Duel	445
The Murder of Lord William Russell	461
The Action against Earl Ferrers	485

PREFACE.

THE following series contains all those trials of interest or importance which relate to the aristocracy, without being of a public or political nature. They are here presented for the first time in a collective form, and the endeavour has been to make them as plain and readable as possible, by divesting them of forensic technicality and prolixity. Brief historical and genealogical information is given, whenever necessary, as to the persons of note who figure in the cases; and all matter of an improper or indelicate tendency is carefully excluded.

This volume being a record of facts, rather than law, the editor has, wherever he could do so without marring the narrative, carefully abstained from including in it any arguments or disquisitions of a mere legal nature. Yet it ispresumed the work, though of a general character, will not be without utility to the law student. The form and process of the trials are almost invariably preserved, and in every case where practicable, the speeches of the counsel are given entire. This latter feature the editor deems of much importance, since all those conversant with courts of justice must feel and acknowledge how essential it is to be able to rightly state a case, especially where the object is the prosecution of a criminal offence. The splendid specimens of opening addresses

contained in the following collection are a study in themselves, emanating, as many of them do, from men of the finest intellect and judgment, and of immortal forensic reputation. With these considerations attended to, the book nevertheless mainly directs its purpose to the amusement and information of the general reader.

The editor cannot forbear from alluding to one objection which might possibly be made to the republication of the following trials. The book, from its nature, might cause some to suspect him of an intention to depreciate the character of the British aristocracy. Far from it. He has too high a respect and veneration for the nobility of these realms, connected as that nobility has ever been, from the beginning until now, with the glory, the liberty, and the happiness of the people, to allow such an idea for a moment to enter into his meditations. The work is solely produced as a singular series of narratives, the knowledge of which forms, in some measure, a necessary adjunct to the history of the country. It will also be remarked that, in a great number of the cases, the titled parties are sinned against, not sinning; since they appear in the light of complainants not defendants. If indeed the editor had the least conception of lowering the well-merited reputation of our aristocracy, his endeavour would be signally defeated by this very publication, for it turns out to be one of the most triumphant vindications of our nobility that could possibly be obtained. The volume embraces a period of three hundred years, and during the whole of that time we find but three peers convicted of murder: the very charge against them, if we except Lord Ferrers' crime—the act of a madman, and some cases of duelling, is unknown for more than two hundred years back. Moreover, setting aside these murders, and also the night broils peculiar to the beginning of the last century, the aristocratic classes of society have scarcely a

single instance on record against them of a base or degrading nature, beyond the misdemeanour of Lord Grey of Werke, and the misdeeds of two baronets. Prominent in every political danger—ready on every constitutional occasion, without selfishness or shrinking, the men of birth in England, Ireland, and Scotland, have shed their blood freely on the field and the scaffold; but the judgments pronounced against them are the judgments, not of felony, but of treason. Crimes they may have committed, but they are almost invariably the crimes, not of villainy, but of misapplied honor, and misguided devotion. Compared with the numbers of the aristocracy, the offences here proved against them are as nothing; no other class of society makes aught like an approach to similar immunity. Throw in, too, the whole gravamen of imputation contained in this volume, and it is but a feather in the balance, when outweighed by the transcendent worth and glorious achievements of the British nobility which is, and has ever been, the proudest and the fairest—the best and the bravest, in the world. To borrow from the idea of Horace, one has no cause to complain, if through the inadvertence or the weakness of human nature, a speck or two may, on some rare occasion, have fallen upon the acknowledged brilliancy of that nobility's fame.

> . . . Ubi plura nitent in carmine, non ego paucis
> Offendar maculis, quas aut incuria fudit,
> Aut humana parum cavit natura.

The Criminal Law, its wondrous archives and its varied revelations, have always been a favorite study with the editor of this series; and he will feel perfectly satisfied if the reader derive interest and instruction in the perusal of the volume at all approaching that which he has experienced in its compilation.

TEMPLE, NOVEMBER, 1848.

CELEBRATED TRIALS

CONNECTED WITH

THE ARISTOCRACY.

THE TRIAL OF SIR EDMOND KNEVET, KNIGHT, AT GREENWICH, FOR STRIKING A PERSON WITHIN THE KING'S PALACE.

The 10th of June, 1541, Sir Edmond Knevet, knight of Norfolke, was arraigned before the king's justices, sitting in the great hall at Greenwich, Master Gage, comptroller of the king's houshold, Master Suthwell, Sir Anthony Browne, Sir Anthony Winkfield, Master Wrisley, and Edmond Pecham, cofferer of the king's housholde, for striking of one Master Clere, of Norfolke, servant with the Earle of Surrey, within the king's house in the Tenice court. There was first chosen to goe vpon the said Edmond, a quest of gentlemen, and a quest of yeomen, to enquire of the said strype, by the which inquests he was found Guilty, and had Judgment to loose his right hand; whereupon was called to do the execution, first the serjeant chirurgion, with his instrument appertaining to his office: the serjeant of the woodyard with the mallet and a blocke, whereupon the hand should lie: the master cooke for the king with the knife: the serjeant of the larder to set the knife right on the ioynt: the sergeant farrier with his searing yrons to seare the veines: the sergeant of the poultry with a cocke, which cocke should

have his head smitten off vpon the same blocke, and with the same knife: the yeoman of the chandry with seare clothes: the yeomen of the scullery with a pan of fire to heat the yrons, a chafer of water to coole the ends of the yrons, and two fourmes for all officers to set their stuffe on: the sergeant of the seller with wine, ale, and beere: the yeomen of the ewry in the sergeant's steed, who was absent, with bason, ewre, and towels. Thus every man in his office ready to doe the execution, there was called forth Sir William Pickering, knight marshall, to bring in the said Edmond Knevet, and when hee was brought to the barre, the chiefe justice declared to him his trespasse, and the said Knevet confessing himselfe to be guilty, humbly submitted him to the king's mercy: for this offence he was not onely iudged to loose his hand, but also his body to remaine in prison, and his landes and goods at the king's pleasure. Then the sayd Sir Edmond Knevet desired that the King, (Henry VIII.) of his benigne grace would pardon him of his right hand, and take the left: for (quoth he) if my right hand be spared, I may hereafter doe such good seruice to his grace, as shall please him to appoint. Of this submission and request the justices forthwith informed the king, who of his goodness, considering the gentle heart of the said Edmond, and the good report of lords and ladies, granted him pardon, that he should loose neither hand, land, nor goods, but should go free at liberty.

Sir Edmund Knevit, or Knevet, whose case is thus curiously recorded in the State Trials, was the descendant of a very old and honourable family, the Knyvetts of Buckenham, in Norfolk: his ancestor had been Chancellor of England in the reign of Edward III, and he himself was of high rank and consideration during the reign of Henry VIII: a peerage and a baronetcy were obtained by his descendants, but both these honours, and the family itself in the male line, are now extinct.

The "Master Clere," the person assaulted, was a member of the ancient knightly family of Clere of Ormesby in Norfolk, which was in high favour with Henry VIII, and which, at a subsequent period, obtained a baronetcy. This family is also extinct in the male line: a branch of it, however, which settled in Ireland, terminated in an heiress, Mary Clere, who married Sir William Parsons, Bart., the grandfather of that distinguished scientific nobleman, the present Earl of Rosse.

THE TRIAL OF LORD STOURTON AND FOUR OF HIS SERVANTS FOR THE MURDER OF THE HARTGILLS, FATHER AND SON.

The baronial house of Stourton is one of the oldest in the realm; the family held considerable rank prior to the Conquest, and William the Norman on his invasion encountered no other opponent so formidable as Botolph Stourton, who finally compelled the victorious duke to accede to the demands he made in favour of the people dwelling in the West about the Severn. His descendant, Charles, seventh Baron Stourton, was the unhappy subject of this trial.

On the 28th of February, 1556, this Lord Stourton was arraigned at Westminster Hall, before the judges and several of the council; it was long before he would answer to the charge laid against him, till, at last the Lord Chief Justice declared to him that he must be pressed to death according to the laws of the land, if he would not answer: after which he made answer, and was convicted, and condemned to be hanged, together with his four men, for the following murders:—

In the reign of Edward VI, William Lord Stourton having charge of one of the king's places near Boulogne, died; and shortly after his death, Charles Lord Stourton, his son and heir, went to Kilmington, to the house of William Hartgill, Esq.; where Dame Elizabeth, late wife to Lord William and mother to the said Charles Lord Stourton, sojourned, and earnestly persuaded William Hartgill to be a means, that Dame Elizabeth should enter into a bond to him, in a great sum of money, that she should not marry; which the said William Hartgill refused, unless Lord Stourton would assign some yearly portion for his mother to live upon.

In discoursing on this matter, Lord Stourton quarrelled with William Hartgill; and, on Whitsunday in the morning, he went to Kilmington

church with several men, with bows and arrows, and guns; and when he arrived at the church-door, John Hartgill, son of William, being told of the said Lord Stourton's coming, went out of the church, drew his sword, and ran to his father's house adjoining the church-yard side. Several arrows were shot at him in passing, but he was not hurt. His father and mother were forced to go up into the tower of the church, with two or three of their servants, for safety. When John Hartgill arrived at his father's house, he took his long-bow and arrow, bent a cross-bow, charged a gun, and caused a woman to bring the cross-bow and gun after him, and he with his long-bow came forth and drove away the said Lord Charles and his men from the house, and from about the church, except half a score that had entered the church, among whom was one hurt in the shoulder with a hail shot. His father advised him to take his horse and ride up to the court, and tell the council how he had been used. On Monday, towards evening, he reported to the honourable council how his father had been dealt with, whereupon they sent down Sir Thomas Speak, the high-sheriff of Somerset, not only to deliver the captives, but to bring with him the said Charles Lord Stourton, who, when he came, was committed to the Fleet, where he remained but for a short time.

It appeared that as soon as John Hartgill had set off towards London, Lord Stourton's men returned to the church of Kilmington, and about Mr. Hartgill's house, and continued about there till the arrival of the sheriff, which was on Wednesday; during which time, William Hartgill's wife was permitted to go home on Whitsunday, towards night; but in the mean time, Lord Stourton's men went to the pasture of William Hartgill, took his riding gelding, and carried him to Stourton Park pales, and shot him with a cross-bow, reporting that Hartgill had been hunting in his park upon the gelding. Thus Lord Stourton continued his malice throughout King Edward's reign, and with violence took from William Hartgill all his corn and cattle.

On the death of King Edward, William Hartgill and his son petitioned Queen Mary and her council, for redress, her majesty being then at Basing-end, in Hampshire. The council called Lord Stourton and William Hartgill before them, and Lord Stourton promised, that if William Hartgill and his son would come to his house, and desire his good will, they should not only have it, but also be restored to their goods and cattle; where upon his promise, made in such presence, they took John Dackombe, Esq. with them, to witness their submission.

When they came near Stourton House, in a lane, half a dozen of Lord Stourton's men rushed forth, and letting Mr. Dackombe and William Hartgill pass them, they stept before John Hartgill, and when he turned his horse to ride away, six others of the said lord's men beset him before and behind; and before he could draw his sword and get from his horse wounded him in three or four places, and left him for dead. Nevertheless, in half an hour, he recovered himself, got upon his horse, and took refuge in the house of Richard Mumpesson, of Maiden-Bradley, Gent.

This at last became a subject of star-chamber enquiry, and Lord Stourton was fined in a certain sum to be paid to the Hartgills, and imprisoned in the Fleet, whence he obtained licence, upon some pretence, to retire to his house in the country, and took an opportunity to murder both the Hartgills.

Within three or four days after his arrival at Stourton Caundle, he sent advice to the Hartgills, that he was ready to pay them the sums of money, as ordered by the star-chamber; and to end all disputes between them.

They agreed to invite him at Kilmington church on Monday after Twelfth-day, at ten o'clock; and Lord Stourton came accordingly to Kilmington, accompanied by fifteen or sixteen of his servants, sundry tenants, and some gentlemen and justices, to the number of sixty. He went to the church-house, and sent word to the Hartgills, who were in the church, that the church was no place to talk of worldly matters, and that he thought the church-house a fitter place: the Hartgills came out of the church, but fearing ill, refused to enter into any covered place, the church excepted; whereupon, it was proposed, that a table should be set upon the open green, which was done accordingly.

Lord Stourton laid thereupon a cap-case and a purse, as though he intended to make payment, and calling the two Hartgills, said, that the council had ordered him to pay them a certain sum of money, every penny of which they should have: "Marry, he would first know them to be true men:" and then laid hands upon them, saying, "I arrest you of felony," on which his men, to the number of ten or twelve, by violence thrust them into the church-house, where, with his own hands, the lord took from them their purses. Then, having in readiness two cords, he delivered them to his man to bind the Hartgills; and to the younger of the Hartgills, when bound, he gave a blow in his face, and coming out of the house with a sword, and finding at the door young

Hartgill's wife, he kicked at her, and gave her such a stroke with his sword, between her neck and her head, that she fell to the ground nearly dead. From hence, he caused the two Hartgills to be conveyed to the parsonage of Kilmington, where they were kept with their arms bound behind them, and without meat or drink. About one o'clock in the morning they were conveyed to a house called Bonham, near Stourton; and arriving on Tuesday about three in the morning, they were laid fast bound, in separate places, without meat, drink, or fire, or any thing to lie upon.

About ten o'clock Lord Stourton sent to Bonham, William Farree, Roger Gough, John Welshman, and Macute Jacob, commanding them to convey the Hartgills to a place appointed, and warning them, that in case they should make any noise, to kill them at once. These four brought them into a close adjoining Stourton, and knocked them on the head with two clubs, till the murderers thought they had been dead, (his lordship in the mean time standing at the gallery door, which was but a small distance from the place.) This done, they wrapped themselves in their own gowns, and carried the bodies through a garden into his lordship's gallery, and from thence into a place at the end, his lordship bearing the candle before them. Being not quite dead, they groaned much, especially old Hartgill; when William Farree, one of the murderers, swearing by God's blood that they were not yet dead, his lordship himself ordered their throats to be cut, lest a French priest, lying near to the place, might hear them: and William Farree took out his knife, and cut both their throats, Lord Stourton standing by with the candle in his hand. One of the murderers then said, "Ah! my lord! this is a pitiful sight, had I thought what I now think, before the thing was done, your whole land should not have won me to consent to such an act;" his lordship answered, "What a faint-hearted knave is this: is it any more than ridding us of two knaves, that living, were troublesome both to God's love and man's? there is no more account to be made of them, than the killing of two sheep." Then their bodies were tumbled into a dungeon; and after Henry Sims and Roger Gough had been let down with cords, for there were no steps, they dug a pit and buried them together; Lord Stourton often calling to them from above to make speed.

The bodies were afterwards taken up by Sir Anthony Hungerford, and were found in the same apparel that they were taken in, buried very deep, covered first with earth, then two courses of thick paving,

and finally with chips and shavings of timber, above the quantity of two cart loads.

In the examination of the atrocities of Lord Stourton it appeared, that he had caused, not long before, a barn of one Thomas Chaffin to be set on fire by three of his servants; and then, against Chaffin, for saying it was not done without the knowledge of the said Lord Stourton, or some of his servants, he brought an action, and recovering a hundred pounds damage, he took for the payment out of his pasture by force twelve hundred sheep, with the wool upon their backs; and all the oxen, kine, horses, and mares, that he could find. On another occasion, from one Willoughby he caused to be taken, for his pleasure, a whole team of oxen, whereof two were found fatting in the stall of his house, when he was apprehended.

On the 2nd of March, 1556, Lord Stourton and four of his servants rode from the Tower, with Sir Robert Oxenbridge, the lieutenant, with certain of the guards, through London towards Salisbury. The first night they lay at Hounslow, the next day they went to Staines, thence to Basingstoke, and to Salisbury.

Lord Stourton was accordingly executed March the 6th, in the market-place at Salisbury, and his four men in the country near the place where the murder was committed; and, previous to his death, he made great lamentation for his wilful and impious deeds.

Mr. Keightly, a stanch protestant writer, in his History of England, thus alludes to this trial:

"Queen Mary Tudor was a woman of virtue, and not devoid of mental powers. On one occasion she had exhibited great energy of character. She was constant and sincere in friendship; she was devout, charitable, and just. In 1556, Lord Stourton, a zealous catholic, seized two gentlemen named Hargil, father and son, with whom he was at variance, and with the aid of his servants put them privately to death in his own house, and buried them in a pit fifteen feet deep. The murder, however, came to light, and he and four of his servants were found guilty. All the interest made with the Queen to save him was of no avail; she would only grant him the favour to be hung with a silken rope."

The son of this criminal lord, John, 8th Baron Stourton, was restored in blood by act of Parliament in 1575. In lineal descent from him is the present Lord Stourton, who is the 18th Baron.

THE GREAT CASE OF THE POISONING OF SIR THOMAS OVERBURY IN THE TOWER OF LONDON.

Among the voluminous details which are extant relative to this mysterious and celebrated transaction, the narrative itself becomes perplexed and obscure. To render therefore the present account as clear and compact as possible, the following plan is here adopted. The extremely lucid summary of all the facts connected with the murder, as put forth by Dr. Lingard, in his History of England, is first given, and then, after such further notices of the Countess of Somerset and the other parties accused as may be deemed necessary, the principal trial, that of the Earl of Somerset is, in a condensed form, concisely reported. To begin with Dr. Lingard. The historian thus relates the terrible story.

The death of that powerful minister, (Cecil Earl of Salisbury), allowed King James I to follow his own inclinations: he first selected Robert Carr, and afterwards George Villiers, as objects of peculiar attachment; and these, the creatures of the royal caprice and bounty, soon acquired the government of the king himself, and through him of his three kingdoms.

Robert Carr owed his brilliant fortune to accident. At a tilting-match the Lord Hay had appointed him his equerry, to present his shield, according to custom, to the king. In the performance of his duty, Carr was thrown from his horse, and broke his leg in the fall. James ordered the young man to be carried into a neighbouring apartment, sent a surgeon to attend him, and repeatedly visited him in person. He found that Carr, when a boy, had been his page in Scotland, and was of the family of Fernyherst, the son of one who had suffered much in the cause of the unfortunate Mary Stuart. The plea of his services and those of his father was aided by the beauty of his person, and the ingeniousness of his answers. Pity insensibly grew into affection: James looked on

his patient as an adopted child; he even took the pains to instruct him in the Latin grammar; and, what was more to the purpose, in "the craft of a courtier." After his recovery he was daily distinguished with marks of the royal favour: riches and honours poured upon him; the lands which escheated to the crown, and the presents offered by those who solicited his mediation with the sovereign, gave him a princely fortune: and he was successively raised to the honours of Baron Branspeth, Viscount Rochester, and Knight of the Garter. Still he affected to take no part in the conduct of affairs, till the Earl of Salisbury died, when several important offices became vacant, and the hope of obtaining them, or the places of those who might obtain them, filled the court with a multitude of candidates. Of these many sought the protection of the two Howards, the Earl of Suffolk, Lord Chamberlain, and the Earl of Northampton, Lord Privy Seal; while others professed themselves the dependants of the young favourite, the Viscount Rochester. The court was agitated by intrigue, jealousy, and enmity; and James, for more than a year, balanced between the two parties, seeking in vain to reconcile their opposite pretensions. It was, however, a fortunate time for Rochester, who, though he held no official situation, transacted business as Prime Minister and Principal Secretary. Unequal to the task himself, he employed the aid of Sir Thomas Overbury, who, from Carr's first introduction to the king, had been his guide and assistant. Overbury was an able and artful counsellor, but violent, capricious, and presuming. Though he had been banished from the court for an insult offered to the queen, he was soon recalled at the solicitation of Rochester; but he could never obtain the good-will of the monarch, who continued to look on him as a rival in the affections of his favourite, and the fomenter of the factions which divided his ministers. By the public he was courted on account of his influence with his patron: valuable presents were given to secure his favour; and on the morning of the 21st of April, 1613, he boasted to Sir Henry Wotton of his good fortune, and of the flattering prospects which lay before him. Yet that very day before sunset he was committed a close prisoner to the Tower. The occasion of his disgrace was the unfortunate passion of the viscount for the Lady Frances Howard, the daughter of the Lord Chamberlain Suffolk. At the age of thirteen she had been married to the Earl of Essex, who was only a year older than herself. Immediately after the ceremony, the bridegroom proceeded to the university, and thence to the continent; the bride was consigned to the care of her mother, who bestowed more attention on

the ornamental than the moral education of her daughter. The young Lady Essex became the boast of the court; and her wit, her beauty, and her acquirements, raised her above competition: but when her husband returned, she received him with manifest tokens of dislike, and if she occasionally consented to live with him in the country, it was always owing to the peremptory commands of her father. The meetings between them were short: he complained of the coldness of his wife; she spent her time in tears and recriminations—till at last these dissensions produced on the part of each a rooted antipathy to the other. At court she had many admirers, among whom were Prince Henry and Rochester. But the latter was the favoured lover; and in one of their furtive meetings it was proposed that she should sue for a divorce from Essex, and afterwards marry the viscount. Her father and uncle were led by political motives to approve of the project; and the king, who could recollect a similar proceeding whilst he reigned in Scotland, hailed it as the means of extinguishing the rivalry between his favourite and his two ministers: but by Overbury, though he had hitherto been the pander to their pleasures, it was decidedly and violently opposed. He foresaw the ruin of his own hopes in the reconciliation of his patron with his enemies; he objected the "baseness of the woman," and the infamy of such a marriage; and he declared that he both could and would throw an insuperable obstacle in the way of their union. Rochester had the weakness to betray his adviser, and Frances in her fury offered £1000 to Sir John Wood to take Overbury's life in a duel: but her friends suggested a more innocent expedient to remove him from court, by sending him on an embassy to France or Russia. His inclination was first sounded by the Archbishop of Canterbury, and then an order that he should accept the mission was brought to him by the Lord Chancellor and the Earl of Pembroke. He refused, observing that the king could not in law or justice exile him from his country. This answer was pronounced a contempt of the royal authority, and the delinquent was committed, with the consent of his patron, to the custody of the lieutenant of the Tower.

Within a few days, proceedings for a divorce between the Earl and the Countess of Essex, on the ground of incapacity, were instituted before a court of delegates appointed by the king. All the judicial forms usual on such occasion were carefully observed; but the details are not fit for the eye of the general reader. With the public a suspicion existed that both the parties in the suit, and the judges who pronounced

in their favour, acted in opposition to the dictates of their consciences; and it was reproached to James, that, instead of remaining a silent spectator, he had spontaneously come forward, and exerted himself in the progress of the cause with the warmth and partiality of an advocate; an indiscretion which probably was prompted by affection to his favourite, whose gratitude or policy unexpectedly relieved the immediate wants of his sovereign with a present of £25,000. However that may be, the king undertook to browbeat the judges; he answered their arguments; he forbade them to take additional examinations; he increased their number; and at last procured a decision in favour of the divorce, by a majority of seven to five. Overbury lived not to be acquainted with this judgment. On the preceding day he expired, after a confinement of six months; during which he had not been permitted to see his friends, or to communicate with them by letter. The time, the manner of his death, the reported state of the body, and its precipitate interment, provoked a general suspicion that he perished by poison.

After a short delay, Frances Howard was married in the royal chapel to her lover, who, that she might not lose in title by the exchange, had been previously created Earl of Somerset. At the ceremony she had the boldness to appear with her hair hanging in curls to her waist, the appropriate distinction of a virgin bride: the king and the chief of the nobility honoured the nuptials with their presence, and a long succession of feasts and masks, in which the city strove to equal, if not to outshine, the court, attested the servility of the men, who, to ingratiate themselves with the royal favourite, could make public rejoicings in celebration of a marriage, which in private they stigmatised as adulterous and illegal.

* * * * * * *

From that moment (the elevation of the new favourite, George Villiers,) the influence of Somerset declined. The court was divided into two parties, anxiously bent on the depression of each other, and all who had envied the prosperity, or had suffered from the ascendency of the favourite, attached themselves to the rising fortunes of his competitor. The suspicion that Overbury had met his death by poison had been kept alive by successive rumours; it had even been whispered that the murder might be traced, through the inferior agents, to Somerset and his countess; and an opening to the discovery was made by an incautious avowal of Elwes, the lieutenant of the Tower, to the Earl of Shrewsbury. Secretary Winwood, at the instigation of the archbishop, and under a promise of protection from the queen, ventured to communicate the circumstance to James, who proposed certain questions to Elwes in writing,

and, from his answers, learned sufficient to doubt the innocence not only of Lady Somerset, but also of his favourite. Partly through a sense of justice, and partly through the fear of infamy, he despatched an order to Sir Edward Coke, the Lord Chief Justice, to make out a warrant for the commitment of the earl. Still he kept him in ignorance of his approaching fate; he admitted him into his company as usual; and was found by the messenger at Royston, embracing the neck, and kissing the cheeks, of Somerset. The nobleman complained of his arrest in the royal presence, as of an insult, but was silenced by the ominous exclamation of James, "Nay, man, if Coke sends for *me*, I must go;" to which was added another as soon as his back was turned, "The deil go with thee, for I will never see thy face mair." In a short time Coke arrived, to whom James committed the investigation of the matter, concluding with this imprecation, "May God's curse be upon you and yours, if you spare any of them; and on me and mine, if I pardon any."

Coke executed the task with more than ordinary zeal, stimulated, perhaps, by the fear of incurring the suspicion of partiality, on account of his previous obligations to Somerset. After three hundred examinations, he presented a report to the king, stating that Frances, Countess of Essex, had been in the habit of employing sorcery to estrange the affections of her husband, and to win those of Rochester; that to remove Overbury, the great impediment to the projected marriage of the lovers, a plan was concerted between them and the Earl of Northampton; that, by their joint contrivance, Overbury was committed to the Tower, Wade the lieutenant removed to make place for Elwes, and Weston recommended as warder of the prisoner; that the countess having, with the aid of Mrs. Turner, procured three kinds of poison from Franklin, an apothecary, intrusted them to the care of Weston; that by him they were administered to Overbury, with the privacy of Elwes; and that last the unfortunate gentleman perished in prison, a victim to the malice or the precaution of Rochester and his mistress.

In this story nothing appeared wanting but a more satisfactory cause for the murder of Overbury. To discover this was no difficult task to Sir Edward Coke, who prided himself on the facility with which he could detect what was invisible to all others. In a letter from Overbury he found mention of the secrets of Somerset: these he contended must be seditious or treasonable practices; and with the aid of a few conjectures, he boldly charged the earl with the murder of Prince Henry. The

queen immediately caught, or perhaps pretended to have caught, the alarm. She had no doubt, she asserted, that a plan had been proposed to poison her, her son Charles, and the prince palatine, for the purpose of marrying the Princess Elizabeth to Thomas, the son of the Earl of Suffolk, and brother to the countess. But James did not suffer himself to be misled by the terrors of his wife, or the suspicions of the chief justice: the only charge to which he gave countenance was, that the earl had received money from Spain, and had promised in return to deliver Charles, the heir apparent, into the hands of the Spanish monarch.

The minor criminals, Weston, Turner, Franklin, and Elwes, were first brought to the bar. That they had been accessary to the murder, seems plain from the report of their trials; yet many at the time attributed their conviction to a conspiracy against Somerset, and this opinion derived confirmation from the ambiguous language of some of the sufferers at the place of execution. Sir Thomas Monson was next arraigned: he had recommended Weston to be the warder of Overbury, and was exhorted by Coke to confess his guilt, and throw himself on the mercy of the king. But he rejected the suggestion with scorn, and to the surprise of the public was taken from the bar to the Tower, and in a short time recovered his liberty.

The remaining trials were deferred till the arrival of Digby, the ambassador at the court of Spain, to whom orders had been transmitted to repair to England; but from him nothing could be learnt to impeach the loyalty of Somerset. The affection of James began to revive. His reputation required that he should bring his ancient favourite to trial; but he proposed to save him from punishment by withdrawing him from the bar as soon as the verdict should be returned; and, when he was informed that according to law judgment must follow, he announced his determination to grant him a pardon, and with this view forbade the Attorney-General to exaggerate the offence, that the prisoner might not appear unworthy of mercy. The earl was repeatedly advised to confess himself guilty, and assured that the king would grant him his life and fortune. "Life and fortune," he indignantly replied, "are not worth the acceptance when honour is gone." To escape the disgrace of a trial he earnestly solicited admission to the royal presence, or at least to be permitted to write a private letter to the king. When this was refused he assumed a bolder tone, and endeavoured to work on the fears of James, by declaring that at the bar he would take ample vengeance on the prince, who had betrayed him into the power of his enemies. As the

day approached he asserted that he would not leave his chamber; he feigned sickness or insanity; and made or pretended to make, like Sir Walter Raleigh, an attempt on his own life. But the king was inexorable. He commanded the lieutenant of the Tower to employ force, if it were necessary, and to inform his prisoner, that if he indulged in irreverent language with respect to the sovereign, he would be removed from the bar, without any stay of the proceedings on account of his absence. Hence it has been inferred that Somerset was in possession of some important secret, the disclosure of which would inflict indelible disgrace on the king. To me this conclusion appears questionable. No man was better acquainted with the royal disposition than the fallen favourite: his obstinacy, his menaces, and his despair were probably meant as appeals, sometimes to the timidity, sometimes to the feelings of James; and to the partial success of these appeals may be attributed the solicitude of the king to procure his conviction without rendering him undeserving of pardon.

By the exhortations of Whiting, the minister who had attended the other prisoners, the countess had been induced to confess the murder. She was therefore separately arraigned before the peers. She looked pale, trembled while the clerk read the indictment, and at the name of Weston covered her face with her fan. As soon as she had pleaded guilty, Bacon, the Attorney-General, stated to the court the evidence which he should have produced, had he found it necessary: but he had previously the precaution to remove her from the bar, that she might not interrupt him to maintain the innocence of her husband. At the conclusion of his speech, she was recalled, and received judgment of death.

Though Bacon by this artifice had prepared the court to believe the guilt of Somerset, he looked forward with anxiety to the result; for it was, he observed to the king, a different thing to obtain a verdict from a London jury, and to convince the House of Lords. The earl, contrary to expectation, appeared at the bar cool and collected: he never mentioned the king; but he rejected every exhortation to confess, haughtily maintained his innocence, objecting to the relevancy of the evidence, and explaining away circumstances which seemed to make against him. After a long trial the peers found him guilty: but by many this judgment was attributed more to the power of his enemies, than to the cogency of the proofs. Within a few days the countess received a pardon: the same favour was refused by the earl. He was, he said, an innocent

and injured man, and would accept of nothing less than a reversal of the judgment. But some years later, aware of the malice of his adversaries, and of the alienation of the prince, he sought that which he had before rejected, and received with it a promise of the restoration of his property. Within four months, however, James died; and Somerset solicited, but in vain, the fulfilment of the promise from the pity or the equity of his successor. The countess died in 1632; the earl survived her thirteen years.

The Earl of Essex, from whom the Countess of Somerset was divorced, was the son and successor of the famous Robert Devereux, Earl of Essex, the favourite of Queen Elizabeth, and he beame himself afterwards distinguished as one of the great captains of the rebel army during the civil war. His lordship, after his divorce, married, secondly, Elizabeth, daughter of Sir William Powlett, of Eddington, Wilts, by whom he had an only son, who died in infancy. The Earl of Essex, dying in Sept. 1646, was interred with national obsequies in Westminster Abbey. The ancient house of Devereux is now represented by Lord Hereford, the premier Viscount of England.

An eminent counsel and learned writer upon English law, Mr. Andrew Amos, who has recently published an able book upon this murder of Sir Thomas Overbury, preludes the Earl of Somerset's trial with the following remarks.

"Before proceeding to a perusal of the trial of the Earl of Somerset, it is necessary to be premised, that four individuals, Richard Weston, Anne Turner, Sir Gervase Helwysse, and James Franklin, had been executed for the murder of Sir Thomas Overbury. Weston had been the gaoler of Overbury, and was supposed to have administered the poisons. Mrs. Turner was the confidante of the Countess of Somerset; it was she who procured the poisons from Franklin, and delivered them to Weston. Helwysse was the Lieutenant of the Tower, who connived at the proceedings; and Franklin was the apothecary whose poverty or whose will consented to furnish poisons according to order.

"None of these four persons were of consequence enough to have had any occasion of personal resentment against Sir T. Overbury. When we shall follow Sir G. Helwysse to the scaffold, we shall find him very communicative concerning the details of his past life: but had it not been for this murder in the Tower, posterity would have known nothing of these subordinate conspirators, except possibly of Mrs. Anne Turner,

the inventress or the introducer into England of the preparation of yellow starch applied to ladies' *ruffs*.

"Michael Sparke, who, under the affected latinized name of *Scintilla*, published his 'Truth brought to light by Time,' in the year 1651, relates, with little probability of truth, that Mrs. Turner was actually sentenced by Sir E. Coke to be hanged at Tyburn in a ruff stiffened with her own yellow starch. This author appears to have been a severe "*censor morum*," for he expresses a wish that the Judges of his day would sentence female offenders to be hanged with *naked bosoms and backs*, as it might discourage the general practice of ladies going about only half clad. Howell, a contemporary of Mrs. Turner, in his *Medulla*, states that she did, in fact, wear a ruff at her execution, dyed with her yellow starch; and that, in consequence, this article of fashion became at once out of vogue."

Of Sir Thomas Overbury Mr. Amos says—

"Although the contributions of Sir T. Overbury to the literature of the country have been eclipsed by the fame of contemporaries, which even throw into the shade the works of all writers from that age to the present, yet, at the time when the nation was edified and charmed by the fresh productions of a living Shakspere and Bacon, and, in the second rank, of Ben Jonson, Raleigh, Selden, Donne, Beaumont, Fletcher, and Massinger, nevertheless Overbury's poem of the 'Wife' and Overbury's 'Characters' were read and admired. A tenth edition of his works was published in 1754, and the first forty pages consist of elegies and tributes of admiration, with manifold regrets that his 'Wife' had grown husbandless of late."

From Mr. Amos's book is also borrowed the following graphic description :—

"On the first of these days (the 24th May, 1616), the Countess of Somerset, and on the second (the 25th May), the Earl of Somerset, held up their hands in Westminster Hall, where all the nobles and courtiers of the realm, and a multitude of more humble byestanders, perhaps the very individuals who had formerly echoed their praises, or joined chorus in their epithalamiums, were now assembled to hear them answer upon their arraignments for the crime of murder.

"All places of public business and amusement were deserted during these proceedings, so intense was the curiosity thus excited. Ordinary courts of law presented the appearance of the Long Vacation. One contemporary letter writer mentions that at the earl's trial 'a world of people

were as spectators;' another contemporary letter-writer relates, that 'four or five pieces were an ordinary price for a seat in the Hall.' He 'knew a lawyer who had agreed to give 10*l.* for himself and family for the two days;' and 'fifty pounds were given for a corner that would hardly contain a dozen.' The writer himself got a place for ten shillings at the earl's trial, and, in order to secure it, went to Westminster Hall at six o'clock in the morning, the trial commencing at nine. His seat was probably incommodious in proportion to its cheapness, for he was obliged to leave it before the trial was over, in consequence of the heat, and fainting from fasting.

"The interest of the trials was increased by feelings of a superstitious nature; for at a previous arraignment of Mrs. Turner, whom the countess calls in a letter 'sweet Turner,' some mysterious articles were introduced which had been seized in the study of a noted Astrologer, Dr. Forman. This magician is called by the countess, in a letter, 'Dear Father,' and she subscribes herself 'Your affectionate Daughter.' He supplied her with philters to chill the love of Lord Essex for her, and to kindle that of the Earl of Somerset. The articles consisted of enchanted papers and puppets, a piece of human skin, and a black scarf full of white crosses. A roll of devils' names had been produced at Mrs. Turner's trial just before a crash was heard from one of the scaffolds, which were erected round the Hall: this sudden noise, we are told, caused 'great fear, tumult, and confusion among all the spectators, every one fearing as if the Devil had been present, and was grown angry to have his workmanship shewed by such as were not his scholars.' Dr. Forman had also a book, which had been produced in court at a former trial, when Sir E. Coke would not suffer it to be read; for which the scandal of the day supplied a motive,—that he found the name of his own wife registered in it.

"Lord Chancellor Ellesmere officiated as Lord High Steward; he sat under a 'Cloth of Estate,' at the upper end of the hall. Nearest to him stood an Usher bearing a white rod, the insignia of his office; a little farther off were Garter King-at-Arms, and the Seal-bearer, who were on his right hand; and the bearer of the Black Rod on his left. Eight Serjeants-at-Arms were placed on each side, more behind. On either side of the high steward, on benches somewhat lower than his raised seat, placed in a gallery raised from the floor by twelve steps, sat the twenty-one Peers who were summoned to constitute the Lord High Steward's Court. The Judges, dressed in their scarlet robes and collars

of S. S., sat in a row somewhat lower than the Peers. Foremost among them was Sir E. Coke, whose name is still the most eminent of all names of lawyers that are repeated in Westminster Hall. At the lower end of the hall sat the King's Counsel, headed by an Attorney-General, the most distinguished of all who have ever held that office, the great Sir Francis Bacon.

"The prisoners, at their respective trials, stood beyond the lawyers, and separated from them by a *bar*, in a place where every eye could behold the indications of inward emotion, evinced by expressions of countenance or changes of demeanour. A gentleman porter holding an axe stands before a peer or peeress under trial. The edge of the axe is turned from the prisoners; but if sentence of death be pronounced, it is then immediately turned towards them. The Countess of Somerset, on her taking her place, 'made three reverences to his Grace and the peers.' Writers, to whom every minute particular of these trials seems to have been matter of the deepest interest, relate that she was dressed 'in black tammel, a cypress chaperon, a cobweb lawn *ruff* and cuffs.' The lord high steward having explained the object of the proceedings, the clerk of the crown said, 'Frances Countess of Somerset hold up your hand.' She did so, and continued holding it up till the lieutenant of the Tower told her to put it down. The indictment was then read. Whilst it was reading, the countess stood looking pale,—she trembled, and shed some tears. At the part of the indictment where the name of Weston, the actual perpetrator of the murder of Sir T. Overbury, was first mentioned, she put her fan before her face, and there held it covering her face till the reading of the indictment was concluded. The clerk of the crown then asked her, 'Frances Countess of Somerset, art thou guilty of the felony and murder, or not guilty?' The countess, making an obeisance to the lord high steward, answered 'Guilty,' 'with a low voice, but wonderful fearful.' Sir Francis Bacon next delivered an address to the lord high steward, in which he panegyrized the king, gave some account of the discovery of the plot by which Sir T. Overbury had been poisoned, and held out a plain intimation of pardon to the countess, by citing the expression, that 'mercy and truth be met together.' The king's instructions for the investigation of Sir T. Overbury's murder were then read. After which Sir E. Coke extolled the king's sagacity, observing that the instructions that had been read 'deserved to be written in a sunbeam.' The clerk of the crown then demanded of the prisoner, 'if she had any cause to allege why sentence of death

should not be pronounced on her?' She answered, 'I can much aggravate; but cannot extenuate my fault: I desire mercy, and that the lords will intercede for me to the king.' This she spoke 'so low, humbly, and fearfully,' that Sir Francis Bacon, who, as we have noticed, sat near her, was obliged to repeat the words to the lord high steward. An officer of the court upon his knee delivered to the lord high steward the white staff. Sentence of death was then passed, but in passing it, the lord high steward told the Countess of Somerset, 'Since the lords have heard with what humility and grief you have confessed the fact, I do not doubt they will signify so much to the king, and mediate for his grace towards you.'

"An eye-witness observes, that the countess, upon her arraignment, 'won pity by her sober demeanor, which, in my opinion, was more curious and confidant, than was fit for a lady in such distress, and yet she shed, or made show of, some tears divers times.' Another eye-witness writes, 'The countess, after sentence given, in a most humble, yet not base manner, besought the lord high steward, to whom she first directed her speech, (and then likewise to the rest of the lords,) that they would be pleased to mediate his Majesty on her behalf for his gracious favour and mercy, which they promised to do; and then, expressing her inward sorrow by the many tears she shed, departed." Camden, in his jejune Annals, records the universal commiseration of the spectators. In those times, as on various occasions at the present day, and probably as long as human nature endures, the sympathies of mankind for a spectacle of suffering humanity, (especially in the instance of a lovely woman overwhelmed by contrition and fear of death,) immediately presented to the eyes, outweighed in strength the sentiments of justice, and effaced the recollection of a crime marked by extraordinary malice and cruelty.

"Lord Essex, the former husband of the countess, was present at her trial, but seemed purposely to keep out of public observation and the sight of the wife of his infancy."

And now to conclude with the trial of the Earl of Somerset, which, as stated by Mr. Amos, took place on the 25th May, 1616.

The indictment charged him as accessary, before the fact, to the poisoning and murdering Sir Thomas Overbury; to which he pleaded Not Guilty.

Mr. Serjeant *Montague* opened the indictment, and observed that the only thing to be enquired of was, whether the Lord Somerset had procured, or caused, the poisoning Sir Thomas Overbury; the form and

circumstances mentioned in the indictment were not to be regarded; to which the Lord High Steward, Sir Edward Coke, and the rest of the judges, assented.

Then the Attorney-General, Sir *Francis Bacon*, said, that the king had given them in command, not to expatiate or make invectives, but materially to pursue the evidence, as it conduced to the determining the point in question; and this they should have done of themselves, if they had not had so good a warrant; for far be it from us (says he) by any strains of wit, or art, to seek to play prizes, or blazon our names in blood; but observed, however, that next to high treason, the offence the prisoner stood charged with, was the greatest and foulest felony; it was murder by poison; murder committed on the king's prisoner; and murder under a colour of friendship. That what rendered the crime of poisoning so detestable was, that a man was taken off in full peace, thinking no harm, and while he was comforting and refreshing nature with his food; and was the more to be dreaded, because it was so easily committed, and so hard to be prevented or discovered: other murders were committed *cum sonitu*. There were some acts that might discover or trace the offenders; but this came upon a man, when he thought himself in perfect security, and every day he was within the gates of death. Nor did it concern only the man against whom the malice was intended, but it was often prepared for one, and taken by another; as in the reign of Henry VIII, where the intent was to poison one, and the poison being put into the broth, sixteen of the Bishop of Rochester's servants were poisoned; and it went even to the alms-basket, and the poor at the gate were poisoned with it, which occasioned a statute which made poisoning high-treason; for it tended to dissolve human society, and whatever offence did so, was of the nature of high-treason; and observed, that Sir Thomas was the first man that had been murdered in the Tower, except the young princes, who were destroyed by Richard III.

He showed, that the source of all this mischief was, unlawful love, between the Earl of Somerset and the Countess of Essex, which Overbury opposing, they both determined to destroy him; not that Overbury opposed it out of any scruple of conscience (for there was a time when he boasted he had won him the love of this very lady, by his letters and industry), but out of hatred to the family of the Howards; and this had drawn the Earl of Northampton into the plot against him, who knowing Overbury's malice to himself, and his house, thought it necessary he should be removed, and cut off; and thus it was certainly resolved and agreed amongst them, that Overbury must die.

Then the witnesses were produced, and first, *Henry Payton*, a servant of Sir Thomas Overbury's, who deposed, that he heard high words between the Earl of Somerset and his master, concerning the earl's visiting the countess in the gallery of Whitehall, as he had deposed in the trial of Weston. He deposed further, that he saw a letter from his master to the prisoner, the Lord Somerset, wherein were these words: "If I die, my blood be upon you;" and in that or another, "My lord, you are now as good as your word, you have kept your vow to me." That when his master was in the Tower, Weston ordered the deponent, to tell the Lord Somerset, that the powder his Lordship had sent Sir Thomas, had given him sixty stools, besides vomits; and that when he delivered the message to Lord Somerset, he cried "Psha!" and turned away.

Two letters from Sir Thomas Overbury to the Earl of Somerset, also were read in evidence, in one of which he says, "Is this the fruit of my care and love to you? Are these the fruits of common secrets, common dangers? You cannot suffer me to lie in this misery. All I entreat of you is, to free me from this place, and that we may part friends. Drive me not to extremities, lest I should say something that you and I both repent."

In the other letter he says, "You told my brother Lidcote, that my irreverent style made you neglect me. With what face could you do this, when you know you owe me all the fortune, wit, and understanding that you have? You sacrifice me to your woman, still holding friendship with them that brought me hither. You bad my brother Lidcote keep my desire of liberty secret; but this shall not serve your turn; you and I, ere long, will come to a trial of another nature. 'I am upon the rack and you are at ease, and yet I must say nothing! When I heard, notwithstanding my misery, you went to your woman, curled your hair preferred Gibbe to the bed-chamber; and, in the mean time, send me nineteen projects, how I should cast about for my liberty; give me a long account of the pains you have taken, and then go out of town, while I have neither friend, or servant, suffered to come at me. Well, I have written the story betwixt you and me, but I have lost my friends, for your sake; what hazards I have run; what secrets have passed between us; how, when you had won that woman by my letters, you concealed all after proceedings from me, which occasioned those breaches between us; of the vow you made to be even with me, and sending for me twice that day I was caught in the trap; persuaded me it was a plot of my enemies, to send me beyond sea; and urged me not to accept it (the

embassy), assuring me you would free me from any long trouble. On Friday I sent this narrative to a friend, under eight seals; and, if you persist to use me thus, assure yourself, it shall be published. Whether I live or die, your shame shall never die, but remain to the world's end, to make you the most odious man living."

Simcock's examination was read, who deposed, that when Sir Thomas was in the Tower, Weston often told him, the Lord Somerset ordered him to look well to Overbury; for, if he came out, one of them must die.

Another examination of *L. Davis* also was read, who deposed, that several sealed packets, directed to the king, were given to Sir Thomas by the Lord Somerset; and that Sir Thomas opened them, took short notes out of them, and then sealed them up, and returned them to the Lord Somerset again.

The depositions of *Franklin*, and the rest of the witnesses, also were read, which were given in evidence at the former trials: and Mr. *Overbury*, father of Sir Thomas, deposed, that, hearing his son was very sick in the Tower, he petitioned the king, that some physicians might have access to him; and the king said, his own physician should go to him; whereupon he addressed himself to the Lord Somerset, who said, his son should be speedily delivered; but bad him prefer no more petitions. However, not finding any steps taken towards releasing him, he preferred another petition, and the king said, he should have an immediate answer and the Lord Somerset told him, he should suddenly be relieved: but advised, that neither the petitioner, or his wife, should press to see him, because it might protract his delivery; nor deliver any more petitions to the king, for that might stir up his enemies against him.

The following letter from the Lord Somerset to Mrs. Overbury also was read, viz., "Your stay in town can avail nothing towards your son's delivery. I would advise you to retire into the country; and doubt not, before your coming home, you will hear he is a free man."

Then a letter that the Lord Somerset wrote to Mr. Overbury after his son's death, was read, wherein he says,

"Your son's love to me got him the malice of many; and they cast those knots on his fortune, that cost him his life; so, in a kind, there is none guilty of his death but I; and you cannot have more cause to commiserate the death of a son, than I of a friend: but, though he be dead, you shall find me as ready as ever I was, to do all the courtesies that possibly I can, to you and your wife, or your children. In the mean

time, I desire pardon from you, and your wife, for your lost son, though I esteem the loss the greater; and for his brother, that is in France, I desire his return, that he may succeed his brother in my love."

Several examinations were read, showing, that Overbury was detained, and kept close prisoner, by Somerset's order, though he was committed only for contempt, and the great apprehensions he and his lady were under, lest Overbury should get out; but some of these examinations were not upon oath.

The letters concerning the Lord Northampton's practices with Sir Jervis Elvis also were read, in one of which he tells Somerset, the lieutenant had undertaken, that either Overbury should do him good offices with the Lord Suffolk, or else he should never recover, which he thought the most sure and happy change: which letters the prisoner acknowledged he had received.

Then proof was made of Somerset's sending Overbury arsenic in a letter; and the sending the poisoned tarts and jellies, as in the other trials; and *Franklin's* deposition was read, wherein he says, he was sent for by the Lady Somerset, and made to take an oath of secrecy, in order to suppress the discovery.

And Sir *Robert Cotton* deposed, that a little before the last Michaelmas, Somerset gave him a draught of the largest pardon that had been granted, wherein, among other offences, both murder and treason were pardoned; by which he was ordered to draw one for the prisoner.

The Earl of Somerset, in his defence, said, that the powder he sent Overbury, was to make him sick, that he might have the better handle to speak to the king for him; and that it was at Overbury's desire he sent it. That though he had consented to his imprisonment, that was only to prevent his being an impediment to his marriage; and he had, however, given orders he should have the most airy lodgings, and might speak with whom he would. That, though breach of friendship had been urged as an aggravation against him, it was no wonder for friends to fall out; and he thought Overbury never had a friend to whom he had not given offence.

He confessed there had been a communication of secrets between them; and, knowing Overbury's abilities, he had employed him to take abstracts out of ambassadors' letters, and that by the king's order. That he was so far from dissuading Overbury not to undertake the embassy that he would gladly have had him gone, that he might have been out of the way at that time, as well on account of his marriage, as Over-

bury's insolence, and therefore could not be supposed to have prevented his going. That as to the poisoned tarts, his wife had confessed the sending them; but those the prisoner sent ought to be presumed wholesome, till it was proved otherwise,

That the Lord Northampton's letters proved no more than that the lieutenant would endeavour to make Overbury a good instrument between him and Suffolk; and though Elvis, in his letter, says, "Death is the best way," the answer to those letters would justify him, if he had them to produce. He had endeavoured, indeed, to get a pardon, as he might have been guilty of some oversights in the beginning of his administration, when he was unacquainted with affairs of state; but the general words in it were put in by the lawyers, without his privity. And then, having recommended his case to the consideration of his peers, he, withdrew; but, it seems, they were unanimous in their opinion that the prisoner was Guilty, and he was adjudged to be hanged. Whereupon, he desired the intercession of the lord high steward, and the rest of the peers, to his Majesty, for mercy.

And thus ended this fearful tragedy: the unhappy earl and countess died, as above stated by Dr. Lingard, in poverty and obscurity. They left an only child, who, though the offspring of such parents, grew up a lady of eminent piety and virtue. Mr. Amos thus gracefully alludes to her.

"The Countess of Somerset has, however, a claim on general interest which may somewhat mitigate the feeling of horror that the mention of her name inspires. For her only child, born in the Tower during her imprisonment, and named Anne, after the name of the Queen, in the hopes thereby of propitiating her Majesty, was afterwards married to the Duke of Bedford, and was the mother of William Lord Russell;—who, if his grandmother was undeservedly reprieved from the scaffold, preserved, by his example on that fatal stage, the national spirit which was thereby enabled in the end to triumph and do justice to his memory."

THE TRIAL OF THE REV. ROBERT HAWKINS, PROSECUTED WRONGFULLY FOR FELONY, IN 1669, THROUGH THE MEANS OF SIR JOHN CROKE, BART, THE LAST OF THE CROKES OF CHILTON.

This trial is remarkable, among other things, for having been very fully preserved in a report drawn up and published by the prisoner himself. The following is from the third edition, dated 1728, which is entitled "The Perjured Fanatic; or the Malicious Conspiracy of Sir John Croke, of Chilton, Baronet, Justice of Peace in Com' Bucks', Henry Larimore, Anabaptist preacher, and other fanatics, against the life of Robert Hawkins, A.M., late Minister of Chilton, occasioned by his suit for tithes; discovered in a trial at Aylesbury, before the Right Hon. Sir Matthew Hale. Published by his Lordship's command." Of the Rev. Robert Hawkins, we have only what he has himself told us. From the figure he made on this trial for felony, the only occasion on which he appears to have been drawn forward into the light,—at least the only chapter of his life which has been preserved,—he would seem to have been a person of considerable acuteness and readiness—something both of a logician and a rhetorician—on the whole, much above the ordinary run of country clergymen of that age; and he was evidently also a zealous churchman and orthodox to the backbone; but he certainly obtained no further preferment in the church, dying minister of Chilton after an incumbency which must have extended to nearly half a century. Nor, beyond this one publication, is his name to be traced in the authorship of the day; indeed, he had dropped into such obscurity, that the Rev. Dr. Charlett, Vice Chancellor of the University of Oxford, who had been a principal promoter of the first publication of the trial, declares in a

letter to him, written in 1710, and prefixed to the second edition printed that year, that he had supposed him to have been dead twenty years before. But Hawkins, who, whatever may have been his zeal on some professional points, was a man of sense, had had, it must be confessed, sufficient provocation before he sought the aid of the courts of law, as will appear from his own account, prefixed to the second edition of the report of the trial, and borne out by the whole course and issue of the affair.

"I have been persuaded," he writes, "by some persons of note, to suffer this trial to be reprinted; the Right Rev. Lord Bishop of Waterford having lately thought fit to give a short account of it in the book which he published concerning his unhappy predecessor, Bishop Atherton [The Case of John Atherton, Bishop of Waterford, in Ireland, Fairly Represented; 8vo. London, 1710]; and the first edition of this trial being entirely sold off, that I myself could not obtain a single copy of it in several years, I willingly consented to the motion; that so those gentlemen who have seen only a succinct account of this villanous conspiracy in the afore-mentioned book, may receive entire satisfaction by viewing the trial itself, as it was ordered to be printed by the Lord Chief Justice Hale. The same persons have also thought it very proper that some account should be given of the occasion of this great difference between Sir John Croke, Larimore, with the rest of those persons of the town of Chilton, who joined in this wicked conspiracy, and myself. In compliance with their desire, I have thought fit to publish this brief but true relation of the whole matter.

"I was entertained by Sir John Croke of the parish of Chilton, in the county of Bucks, Baronet, to attend as chaplain in his house, and also to serve the cure of the said parish of Chilton; for which he did, under his hand and seal, promise to pay me fifty pounds per annum, he being impropriator of the said parish, and to pay it by quarterly payments. When I had faithfully performed my duty in both these capacities above two years, and in all that time had received no money from him, but upon some occasions had lent him several sums out of my pocket, at last I was somewhat urgent with him for money; and then he told me plainly, that I did not know him as yet; for, as he said, he had cheated all persons that he had ever dealt with; and therefore I must not expect to speed better than they had done. I told him that I hoped better things from him; but he replied that he never intended to pay me any money, and therefore I might take my course.

"When I saw that, I went to London, and upon inquiry found that Sir John Croke was outlawed after judgment at the suit of Mr. Thomas and Mr. William Hellows, the one of London and the other of Windsor, for a sum of money due from the said Sir John Croke to the said gentlemen; and that his manor of Chilton, with several farms and the rectory of the said parish, were extended into the King's hands, and a lease was granted from the Crown, under the seal of the Court of Exchequer, to the said gentlemen and their assigns. I applied myself therefore to them, in order to persuade them to pay me for serving the said cure out of the profits arising from the said rectory; and they, by the advice of their counsel, granted me a lease of the said rectory, with all the glebes, tithes, and other profits belonging to the same, under both their hands and seals, to enable me to demand the same. Upon which I returned to Chilton, and acquainted Sir John Croke with what I had done; humbly entreating him to pay me what was due, and upon that condition I promised to deliver up the said lease.

"But Sir John, instead of complying, told me I was a treacherous villain, and had undermined him in his estate, and therefore was not fit to live; and that the lease should be of no use to me, for that he would find out a way to prevent all my designs, and put a stop to all my proceedings, for he knew how to do my business to all intents and purposes; and bid me get out of his sight, or else he would knock me down immediately. So I left him in a great rage and passion. Soon after this, he advised one Mr. Good, a minister in the next parish, with the said Larimore and others, to make a forcible entry upon my church in Chilton, which, accordingly, they did, by breaking it open; and I indicted them for a riot upon that account at the next sessions at Buckingham. And then I desired several of the farmers to give me a meeting, in order to prevent a suit in law if possible. When they came to me, I told them, that Sir John Croke owed me a great sum of money for serving the cure at Chilton, which they all knew to be true: and that he refused to pay me; and therefore, unless they would find out some way for me to be paid, I must put my lease in suit, and force them to pay their tithes to me, or compound with me for them. They replied, that it would be unjust in me to make them pay their tithes over again, which they had bought of Sir John Croke, and had taken their farms tithe-free. I replied, if they would let me see their leases, I would not insert any of those persons' names in my bill whose leases bore date before the outlawry and extent; but all those whose leases were made since that

time were liable to pay their tithes to me, or else compound with me for them. But they replied, that they would consult Sir John Croke about the matter, and let me know his answer in a short time.

"So when they had discoursed with Sir John, they told me that he said they need not to fear what I could do them by virtue of the lease, or upon any other account, for, as soon as I should begin the suit and demand the tithes, he was fully resolved to do my business, so effectually as should stop all my proceedings.

"So when I saw I could not prevail to get my money either from Sir John Croke or the tenants, I was forced to exhibit my bill in the Exchequer for the tithes against Larimore, Mayne the constable, Thomas Beamsly, Nicholas Sanders, and others: which I did in Michaelmas term, 1667, as may appear by the records of the Exchequer: and when the said Larimore, Mayne, and the rest above named were served with subpœnas to answer my said bill, Sir John Croke soon after, viz. Wednesday, September the 16th, 1668, entered upon this conspiracy with Larimore, to take away my life."

Sir John Croke, who makes so remarkable a figure in this trial, was the unworthy representative of a very ancient family, which had been distinguished for some generations in the profession of the law. The Crokes, or Crooks, are said to have been originally called Le Blount, or Blount, and their descent is deduced from Blondi, or Brondi, of Italy, whose head was the illustrious family of the Counts of Guisnes, a house allied to most of the royal families of Europe. The Blounts were settled in England, and were in possession of large estates in the county of Suffolk, soon after the Conquest. One of them who had been outlawed in the beginning of the reign of Henry IV, with his whole race, in consequence of the conspiracy for the restoration of Richard II, in which the head of the family, Sir Thomas Blount, lost his life on the scaffold, is said to have been the first who assumed the name of Croke, on his clandestine return from the Continent to his native country. His great grandson John Croke, who was a Master in Chancery in the reign of Edward VI, bought the manor of Chilton from Lord Zouch in 1529. His grandson, Sir John Croke, was Recorder of London, one of the members for the City, and Speaker of the House of Commons, in the reign of Elizabeth; and being made by James I one of the Judges of the Court of King's Bench attained the reputation of being one of the greatest lawyers of his time. Sir George Croke, the Judge who distinguished himself by his opposition to the crown on the question of

ship-money in the reign of Charles I, was a younger brother of this Sir John. The Sir John Croke of the time of this trial was the grandson and representative of Sir John Croke, the Judge, being the son of his eldest son also styled Sir John. Of him nothing honourable is recorded.

A good deal of the dramatic interest of this trial is derived from the presiding Judge, Sir Matthew Hale, whose name is one of the most eminent in the history of the English law.

Mr. Hawkins commences his narrative with all due precision and formality, as follows;—Upon Tuesday, being the 9th of March, 1669, I went to Aylesbury, and got thither about four of the clock in the afternoon, and about the same time came in the reverend judges, viz. Sir Matthew Hale, Knt. (then Lord Chief Baron of his Majesty's Court of Exchequer, but now) Lord Chief Justice of England: and Hugh Windham, Serjeant at Law.

And upon Wednesday, the 10h of March, the assizes began, and in the afternoon of the same day, Larimore, by the advice of Sir John Croke, who had then got leave to come to the assizes, carried his bill of indictment against me, to the grand jury.

Upon Thursday, the 11th March, 1669, my Lord Chief Baron came to the Hall about eight of the clock in the morning, and the Court being set, I rendered myself willing to be tried according to the laws of this kingdom. And when the Clerk of the Assizes saw me bow to the Court he then informed my Lord, and said, this is Mr. Hawkins, who stands indicted for felony: and then the Clerk of the Arraignments read the bill, which was signed and returned as aforesaid; and then I was set to the bar without any other prisoners.

He was then arraigned in the usual form. The jury having been sworn, twenty-two witnesses for the prosecution were called by the crier.

The following is the main evidence against Hawkins, which we give as he relates it:

Larimore said, may it please your Honour, my Lord, upon Friday the 18th of September, in the year of our Lord, 1668, between twelve and one o'clock at noon, I locked my doors fast, and left nobody in my house, putting the keys in my pocket. I went to a hemp-plot, about two furlongs from my house, to pluck hemp; when I and the rest of my family continued till an hour and a half of sunset, and then coming home, found my doors wide open; so I went in, and run up the stairs into my chamber (or upper loft, over my inward chamber, where I lie.) I then, hearing a noise in the chamber where I lie, just under me,

peeped down through some of the chinks of the loft-boards; there I saw this Mr. Hawkins (pointing with his left hand towards me, but having his face all that time towards the judge) ransacking and rifling of a box, in which box was then, amongst other goods, one white Holland apron, a purse, and in that purse was, at that time, two gold rings, each of them at the value of 10*s.*, two ten shilling pieces of gold, and 19*s.* in silver, all the which said gold rings, gold and silver (except one small piece of silver or two) I then saw this Mr. Hawkins, that is now the prisoner at the bar, take and turn out of this very purse, which I do now show unto your honour; and he did then steal and carry away all the foresaid rings and money, with the said Holland apron. All these things, my Lord, I saw him take out of my box and purse, for I was all that time looking through the chinks of the board. And when Mr. Hawkins heard some noise above, I further saw the prisoner now at the bar go out of my said lower room where my box was, and glanced by the stair-foot door, and so run out of my house, with a great bunch of keys in his hand, down my yard, and hid himself in a close where there were some beans and weeds. All this, my Lord, I saw with my own eyes. Moreover, my Lord, I having a warrant from Sir Richard Piggot to search for the said rings and money, &c., I did upon the next day (it being Saturday, and the 19th of September) after Mr. Hawkins had robbed me, call Richard Mayne, jun., the constable, and Mr. Thomas Beamsly, tithing man, with some others of our town, to search Mr. Hawkins' house for my said money and goods, which the day before I saw him steal from me; but he refusing to open his doors or to let us search; when we saw that, the constable broke open his doors, and then we went in, and, searching his house, I did then find in an inward room below stairs, in a basket hanging on a pin (put amongst papers and rags, and other trumpery) this gold ring, and this five shilling piece of silver. And I do swear that this ring and piece of silver is one of the same rings and piece of silver which the day before I saw the prisoner now at the bar take out of this very purse, it being Friday the 18th of September, and an hour and a half before sun-set.

In cross-examination Larimore exhibited the most wretched prevarication.

Larimore, Jun.—My Lord, upon the 18th of September, I came home a little after my father, and, coming in the yard, I saw this Mr. Hawkins that is now at the bar run out of my father's house with a great bunch of keys in his hand, and run down my father's yard, and hide

himself in a close with beans and weeds; and when I came into my father's house I asked him what Mr. Hawkins did there; he answered that he had done too much there, for he had robbed him.

Joan Beamsly.—May it please your honour my Lord, upon Friday, the 18th of September, last past, about an hour and a half before sunset, as I was going to milking, in the street near Larimore's house, I met Henry Larimore the younger, and being at that time much troubled with the tooth-ache, I told him of it, desiring him to help me to some hot water for I believe that might give me some ease; Larimore replied, that if I would go with him to his father's house he would help me to some: so, going both together, we saw this Mr. Hawkins, that is now the prisoner at the bar, run out of Larimore's house, with a great bunch of keys in his hand, and run down Larimore's yard into a close of beans and weeds, and there hide himself; and, when we came into Larimore's house, I there heard young Larimore ask his father what Mr. Hawkins did there? Larimore told his son that he had done too much there, for he had robbed him.

When my Lord Chief Baron Hale heard how these three witnesses agreed in their evidence, he said, here is enough sworn, if believed, to hang twenty men.

However, the judge's opinion was soon altered by the following extraordinary scene and what subsequently appeared. A witness, John Chilton, being sworn, my Lord Chief Baron said to him, Come Chilton, what can you say to this business?

John Chilton said, my Lord, I can say nothing, but that I am paid for my boots.

Lord Chief Baron.—What boots?

Chilton.—My Lord, I am paid for my boots.

Lord Chief Baron.—Our business is not now about boots, but, however, come and tell me what thou meanest by them.

Chilton.—My Lord, Mr. Hawkins brought me a pair of tops, to put new legs to them, which I did, and he, coming by my shop, told me he wanted his boots; I replied, they were done; but I, being then about to go out, did promise Mr. Hawkins to lay them in my window, so that he might take them as he went home, which accordingly he did; and when I came home I went to Mr. Hawkins, who at that time was at Sir John Croke's house, where he contented me for my work before we parted: and this is all that I can say, my Lord.

Lord Chief Baron.—What is this to the purpose? Can you say any more, Chilton? If you can, go on.

Chilton.—My Lord, Mr. Hawkins paid me honestly for the boots: but as soon as he began to demand the tithes of [the parish of] Chilton, and did sue for them, then they lay at me night and day to have me charge Mr. Hawkins with flat felony for stealing the said boots out of my shop; but I told them that I laid them in my shop-window for him, and did bid him take them as he came back; and he paid me for my work, and therefore I cannot say he stole them.

Lord Chief Baron.—Who were they that desired you to charge Mr. Hawkins with the stealing of your boots?

Chilton.—This Larimore, Mr. Dodsworth Croke, Richard Mayne the constable, Miles, and John Sanders (who is since dead, my Lord.)

The main testimony for the defence was as follows:—

Hawkins.—I have one witness that I desire may be called, viz., Mr. Samuel Brown.

Lord Chief Baron.—Yes, yes, call him; come Mr. Brown, what can you say?

Mr. Brown said, my Lord, I can say something, but I dare not speak.

Lord Chief Baron.—Why dare you not? Come, speak the truth and spare not, and say no more.

Mr. Brown said, I dare not speak, for Sir John Croke and this Larimore have threatened me, that if I came down to this assizes to testify what I heard about this plot, Sir John Croke said he would fling me in the gaol, and load me with action upon action of 1000*l.*, and ruin me and my family.

When the judge and the justices heard Mr. Brown relate this, every eye began to be fixed upon Sir John Croke; and the people asked which was that Sir John Croke? Then my Lord Chief Baron Hale commanded the clerk of the assizes to give Mr. Brown a writ of privilege, to protect him home again; which being immediately done in court, my *Lord Chief Baron* said, Come, Mr. Brown, let us now hear what you can say to this business.

Mr. Brown said; If it please your Honor, my Lord, upon Wednesday, the 16th September last past, early in the morning, as I lay in my bed at Sir John Croke's house in Chilton, hearing a great noise (I being then intrusted by Sir John Lentall as keeper to Sir John Croke, which is a prisoner at the King's Bench), I fearing that they were contriving some way for him to escape, I started suddenly out of bed, having nothing on but my shirt, and stood at the dining-room door behind the hangings, and then, my Lord, I heard this Larimore tell Sir John Croke that he

had undone him, by causing him to contend with the parson. Sir John Croke asked him why. Larimore replied, Because this Hawkins will undo me, for he hath entered me into most courts of England, and summoned me into the Crown Office and Chancery, and I cannot maintain so many suits. Sir John Croke replied, Is that all? Come, brother Larimore, be contented, we will have one trick more for Hawkins yet, which shall do his work. Larimore replied, Sir John, you have put me upon too many tricks already, more than I can manage, and the parson is too hard for us still. Sir John replied, If you will but act, I will hatch enough to hang Hawkins. Larimore replied, But how shall we bring this to pass? Sir John Croke made answer, Canst not thou convey some gold or silver into Mr. Hawkins's house, and have a warrant ready to search his house, and then our work is done? Larimore replied, Sir, if we could but bring this to pass, it might do well, but I know not how. Sir John Croke said to Larimore, Do you but go to Sir Richard Pigott, and inform him that you have lost some money and goods, and desire his warrant to search for them, which Sir Richard neither can nor will deny you; and then take Dick Mayne, the constable, who is one of us, and will do whatever we desire him, and go and search Mr. Hawkins's house, and there you will find these things; and then charge him with flat felony, and force him before me, and no other justice, and I'll send him to gaol without bail: and we will hang him at the next assizes. Come, (said Sir John Croke,) brother Larimore, let us go and drink our morning's draught, and we will consult more about this business. And so my Lord I heard no more for that time. But——

Lord Chief Baron.—That was enough and too much, too; but, however, Mr. Brown, go on.

Mr. Brown.—So upon Saturday next (being the 19th of Sept. 1668), I having been abroad, and towards night coming up the town, I was informed that Mr. Hawkins (as Larimore pretended) had robbed him: I then began to think more seriously upon what I heard pass the Wednesday before, between Sir John Croke and this Larimore, and coming to Sir John's house, I saw a paper lying upon the hall-table, full of writing, and Larimore with the constable, and several others, had brought Mr. Hawkins before Sir John Croke, who, committing Mr. Hawkins for robbing Larimore, as he pretended, took up the said paper and read it to the constable, and said, that it was Mr. Hawkins's mittimus, which said mittimus was written before Mr. Hawkins came to Sir John Croke, as all that were there can justify. And on Sunday morning

I went to an ale-house, where they had kept Mr. Hawkins all night, and there I saw Mr. H. go to the gaol, and then my heart began to tremble, and yet I durst not discover anything of what I heard: but coming home I said to Sir John Croke—Sir, what, they have carried the poor parson to gaol? Sir John Croke replied, yes, let him go, and the devil go with him, and more shall follow after; have I not often told you that if my brother Larimore and I did but lay our heads together, none are able to stand against us? I replied, yes, Sir John, I have often heard you say so, but I never believed it until now.

Lord Chief Baron.—Mr. Brown, is all this true which you have related?

Mr. Brown.—Yes, my Lord, all that I have said is true, and there sits Sir John Croke (pointing to him with his finger), who knows that every word that I have said is true.

Lord Chief Baron.—If but ever a word that Mr. Brown says be true, it is as foul a conspiracy as ever was heard of.

About this time Sir John Croke stole away from the bench, without taking his leave of my Lord Chief Baron, or any other of the Justices.

My Lord Chief Baron said, Is this Sir John Croke a gentleman, and contrives such plots as this? I never in all my days heard of the like; but I think once in this place I met with one something like it; but this far exceeds that, if this be true that Mr. Brown hath said.

But you of this jury, there is an honest man (said my Lord pointing to Mr. Wilcox) he overthrows all; if that be true which he said, then all that is false which Larimore, his son, and sister have sworn.

Larimore said, my Lord, what I have sworn as to Mr. Hawkins is true.

My Lord Chief Baron replied, Come Larimore, thou art a very villain.

Larimore said, I wish that the ground may open, and swallow me, if anything that I have sworn against Mr. Hawkins is false.

My Lord Chief Baron replied, Come, come, Larimore, thou art a very villain: nay, I think thou art a devil.

Hawkins.—I hope your honour, and this jury, are by this time fully convinced that Sir John Croke is concerned in this plot; for, my Lord, he hath appeared all along to be the grand contriver of it, as appears by Mr. Brown's testimony, and by what he said to Larimore before me and others.

Lord Chief Baron Hale replied, I am fully satisfied, and so, I think, are

all that heard it: and he said to the justices, gentlemen, where is this Sir John Croke? They replied, he is gone.

Lord Chief Baron.—Is Sir John Croke gone? He said, gentlemen, I must not forget to acquaint you (for I thought that Sir John Croke had been here still) that this Sir John Croke sent me this morning two sugar-loaves for a present, praying me to excuse his absence yesterday. I did not then know, so well as now, what he meant by them; but to save his credit, I sent his sugar-loaves back again. Mr. Harvey, did you not send Sir John his sugar-loaves back again?

Clerk of the Assize.—Yes, my Lord, they were sent back again.

Lord Chief Baron.—I cannot think that Sir John Croke believes that the king's justices come into the country to take bribes. I rather think that some other person (having a design to put a trick upon him) sent them in his name. And so taking the letter out of his bosom, showing it to the justices, said gentlemen, do you know this hand? To which some of them replied, they believed it might be Sir John Croke's own hand; which letter being compared with his mittimus (for he had no clerk) and some other of writings there, it plainly appeared to be his own hand. So my Lord Chief Baron seeing that (putting up the letter into his bosom), said, he intended to carry that to London; and he added further, that he would relate the foulness of the business as he found occasions fit for it.

Lord Chief Baron said, Mr. Hawkins, have you any more?

Hawkins.—My Lord, I hope that the jury and your Lordship are fully satisfied as to my innocency, if so, my Lord; but if not, I humbly desire to know wherein I have not given full satisfaction: if anything else shall be alleged against me, I humbly crave time and leave to answer it; for my Lord, I am confident I can give a fuller satisfaction, if what I have said already be too short.

Lord Chief Baron.—You of the jury, what do you think? The prisoner at the bar desires to know whether you are satisfied as to the indictment; if not, you may do well to declare wherein you are not satisfied.

Jury.—It is a very plain case, my Lord.

Lord Chief Baron.—And I think so too, but it is a very foul one.

After an able summing up from Judge Hale, the jury returned a verdict of Not Guilty.

Lord Chief Baron Hale said to the jury, "You have found like honest

men: I do believe that he is not guilty." And he said to Larimore, "Thou art a very villain."

And so the Court arose, there being no other business but my trial the whole morning, which lasted from eight until one. So, as soon as my trial was over, Sir John Croke, Larimore, and the rest of that crew fled privately out of Aylesbury, and durst not stay.

"Thus," concludes Hawkins, "I have, as briefly as possibly I could, run over my trial, and for the truth of it I dare appeal to all that heard it, which were hundreds, who can testify that I have given a just and faithful account of it." In the preface to the second edition of his pamphlet, he states what was the final result of the business. "I shall only mention further," he says, "the encouragement I had from the Lord Chief Baron to prosecute several of the conspirators. He himself was pleased to direct the process for special bail, to order the under sheriff to demand 500*l.* security of each; and, upon a motion at the Exchequer by Sir Richard Croke [this was cousin of Sir John Croke, a grandson of Sir John the Judge by a younger son] and other eminent counsel, that less might be accepted, positively insisted upon the said order, but all ended in their hearty submission to me, and a reasonable composition with them. Larimore paid me 30*l.*; Thomas Croxton 44*l.*; Thomas Beamsly 20*l.*; Mayne 15*l.*; Nicholas Sanders 12*l.*; in all 121*l.* The others were excused by their poverty; and Sir John Croke lost his commission.

All that further appears of the minister of Chilton is, that he had an only son living in 1728, when the third edition of the trial was published. As for Sir John Croke, he sold his ancestral manor of Chilton a few years after this disgraceful affair, and died,—it is not recorded when or where,—a bankrupt alike in means and in character. An only surviving son, Sir Dodsworth Croke, Baronet, died without issue, at a great age and in great poverty, in 1728. And now nothing rests of the Crokes at Chilton, where five generations of them flourished and decayed, except the grim harnessed effigies of some of them on their monuments in the old parish church. A branch however, still remains, of which the late Sir Alexander Croke of Studley Priory, Oxfordshire, was the representative. That gentleman wrote a very elaborate History of the ancient House from which he sprang, and claimed for it the representation of the senior line of the Blondi of Italy. Certain it is that, with the exception of the vindictive and litigious baronet to

whom this base conspiracy has attached such disgraceful notoriety, the family of Croke has been at all times productive of men eminent for their virtues and their abilities. No purer judge than Sir George Croke, the patriotic upholder of the Constitution in the days of Charles I ever adorned the bench: and among the soundest lawyers of the age in which he flourished—an age distinguished for forensic excellence—Sir John Croke, one of the Justices of the King's Bench, *temp.* James I, holds a high position.

THE ASSASSINATION OF MR. THYNNE, IN THE REIGN OF CHARLES II.

This terrible and mysterious transaction still remains among the darkest of the gloomy doings during the period of the Restoration, and the violence of faction consequent upon it. The murder of Thynne originated partly in a love affair, and partly, in all probability, from a secret political motive. The names and the interests of some of the proudest and most powerful families in the realm were involved in this nefarious homicide, and it is quite clear that while the actual assassins paid their forfeit of their crime, the instigator, or instigators, for there may have been more than one, were allowed to escape. The following account of Thynne's murder will be rendered more clear, by first giving a brief history of the parties who are connected with the narrative, and thus in some measure showing the motives which might have led to the perpetration of the offence. And to begin with the interesting but innocent subject of the whole matter—the mainspring of the deed—a daughter of the noble house of Percy.

In May, 1670, died at Turin, at the age of twenty-six, Josceline, eleventh Earl of Northumberland, to which title he had succeeded about a year and a half before, on the death of his father, Earl Algernon, the reserved and wary piece of nobility who figured in the times of the Civil War and the Commonwealth, and although, as Clarendon somewhere intimates, held rather ornamental than useful to either side, yet managed to the last to preserve his perpendicular position on that slippery stage. Josceline, Algernon's only son, by his second wife, Lady Elizabeth Howard, a daughter of the Earl of Suffolk—with whom Suffolk House, at Charing Cross, now called Northumberland House, came into the family—had, in 1662, at the age of eighteen, after having been designed by

his father for her elder sister, who died, married the Lady Elizabeth Wrottesley, a daughter of the last Earl of Southampton of that name; and of this marriage the only surviving issue was a daughter, also, like her mother and her grandmother, named Elizabeth, who was born on the 26th of January, 1667. The Earl and Countess had lost a son born about two years before, and in December, 1669, the Countess was confined of another daughter who did not live. It was to divert their grief for these bereavements that the Earl and his Countess went to the Continent in the spring of 1670, taking with them the subsequently celebrated John Locke as their physician. After a short residence in Paris, the Earl, leaving the Countess and Locke in that capital, was proceeding by himself to Italy, when he was cut off by a fever, brought on, it is said, by travelling post, in hot weather, for a number of days in succession.

Thus ended the male line of the Percies, Earls of Northumberland for nearly three hundred preceding years, and Barons Percy since the latter end of the thirteenth century. The earldom and all the other titular honours of the family were extinct; but the extensive domains, over great part of which her ancestors had ruled, if we may trust tradition and the genealogists, nearly two centuries before the race of William the Norman was seated on the English throne, remained to make Earl Josceline's infant daughter the wealthiest heiress in the kingdom.

On her mother's second marriage, the care of the child was claimed and obtained by her grandmother, the widow of Earl Algernon, probably on the ground of some family arrangement by which that Dowager Countess was to leave to her the large estates she possessed as one of the two co-heiressses of her father, the Earl of Suffolk.

In this condition, before she had completed her thirteenth year, the Lady Elizabeth Percy was married, so far at least as the performance of the ceremony went, to Henry Cavendish, styled Earl of Ogle, the only son of Henry second Duke of Newcastle of that house. But Lord Ogle, who had taken the name and arms of Percy, died in the beginning of November, 1680, within a year after his marriage, leaving his father's dukedom without an heir, and the heiress of the house of Northumberland a prize for new suitors.

The fortunate man, as he was doubtless deemed, who, after only a few months, succeeded in carrying off from all competitors the youthful widow, was Thomas Thynne, Esq., of Longleat, in Wiltshire, son of

Sir Thomas Thynne, of Richmond, in the county of Surrey, knight, and the inheritor of the extensive estates of his uncle, Sir James Thynne, who had died without issue in 1670. The Thynnes had been settled in England ever since the reign of John, when the first of them, two brothers, came over from Poitou, in command of a body of their countrymen, to assist that king in his wars with the barons.

From his large income, Thomas Thynne was called Tom of Ten Thousand, and the society in which he moved was the highest in the land. He had been at one time a friend of the Duke of York, afterwards James II.: but having quarrelled with His Royal Highness, he had latterly attached himself with great zeal to the Whig or opposition party in politics, and had become an intimate associate of their idol, or tool for the moment, the Duke of Monmouth. He had sate as one of the members for Wiltshire in four parliaments; and, after the prorogation to prevent the passing of the first Exclusion Bill, in July, 1679, he was one of the persons who went up to the King with a petition for the speedy recall of the great council of the nation; on which occasion his Majesty, addressing himself specially to Thynne, said he admired that persons of their estates should animate people to mutiny and rebellion, and that he wished they would mind their own affairs, and leave him to attend to his. At Longleat, where he lived in a style of great magnificence, Thynne was often visited by Monmouth: he is the Issachar of Dryden's glowing description, in the Absalom and Achitophel, of the Duke's popularity-and-plaudit-gathering progresses:—

> "From east to west his glories he displays,
> And, like the sun, the Promised Land surveys.
> Fame runs before him, as the morning star,
> And shouts of joy salute him from afar;
> Each house receives him as a guardian god,
> And consecrates the place of his abode.
> But hospitable treats did most commend
> Wise Issachar, his wealthy western friend."

A set of Oldenburgh coach-horses, of great beauty, which graced the Duke's equipage, had been presented to him by Thynne.

The heiress of the house of Percy was nearly connected by affinity with the families both of Lord Russell and Lord Cavendish; Lady Russell was a sister of her mother: and the family of her late husband,

Lord Ogle, was a branch of that of the Earl of Devonshire; so that it may be supposed Thynne was probably in part indebted for his success in his suit to the good offices of his two noble friends. It should appear, however, from an entry in Evelyn's Diary, that the Duke of Monmouth was more instrumental than either.

The lady was fated to be a second time wedded only in form: her marriage with Thynne appears to have taken place in the summer or autumn of this year, 1681; and she was separated from him immediately after the ceremony. One account is, that she fled from him of her own accord into Holland; another, and more probable version of the story, makes Thynne to have consented, at her mother's request, that she should spend a year on the Continent. It is to be remembered that she was not yet quite fifteen. The legality of the marriage, indeed, appears to have been called in question.

It was now, as some say, that she first met Count Königsmark at the Court of Hanover; but in this notion there is a confusion doth of dates and persons. The Count, in fact, appears to have seen her in England, and to have paid his addresses to her before she gave her hand, or had it given for her, to Thynne: on his rejection he left the country; but that they met on the Continent there is no evidence or likelihood.

Charles John Von Königsmark was a Swede by birth, but was sprung from a German family, long settled in the district called the Mark of Brandenburg, on the coast of the Baltic. The name of Königsmark is one of the most distinguished in the military annals of Sweden throughout a great part of the seventeenth century.

Charles John, who was, after his father's death, the head of the family is stated to have been born at Nyborg, in the Isle of Funen, in 1659. He first visited England in 1674, and went from this country to Paris where, being introduced to the highest circle by his uncle, Count Otho William, his appearance and accomplishments enabled him, young as he was, to make a distinguished figure. In 1677, according to the Biographical Dictionaries, he proceeded to Italy, and, thence finding his way to Malta, set out on a cruise with the Knights, and behaved with the height of courage and daring in an engagement with a Turkish vessel, which the galley he was on board of fell in with soon after they had put to sea. He was one of the first to board the enemy, and, having ventured too far, was thrown into the waves, and narrowly escaped being drowned, in addition to being wounded in the foot by an arrow. Having acquired a high reputation by this and other similar exploits, he

afterwards visited Rome, Venice, and Genoa; and then continued his travels through Portugal and Spain with equal distinction.

Königsmark appears to have returned to England in the early part of the year 1681.

At this time Tom of Ten Thousand, with the heiress of Northumberland his own by legal title, if not in actual possession, was at the height both of his personal and his political fortunes. The idol of the patriotic enthusiasm of the day, his friend Monmouth, seemed already to aspire to a throne: the absurd popish plot and the murder of Sir Edmondbury Godfrey had done their work, and raised a tempest which it was in vain that the court strove either to soothe or to bear up against; parliament after parliament had been assembled at Westminster and at Oxford, and after a few weeks dismissed as impracticable; the Duke of York, flying before the storm, had taken refuge in Scotland; Shaftesbury, the brain of the triumphant popular party, of which Monmouth was the ornamental headpiece, after having been detained for five months in the Tower on a charge of high treason, had, in the end of the preceding November, by the grand jury at the Old Bailey throwing out his indictment, been restored to liberty amid a burst of public joy—to see all London that night illuminated with bonfires in his honour, and within fourteen brief months thereafter to perish, a ruined man and a fugitive in a foreign land.

On the night of Sunday, the 12th of February, 1682, all the court end of London was startled by the news that Thynne had been shot passing along the public streets in his coach. The spot was towards the eastern extremity of Pall Mall, directly opposite to St. Alban's Street, no longer to be found, but which occupied nearly the same site with the covered passage now called the Opera Arcade. St. Alban's Place, which was at its northern extremity, still preserves the memory of the old name. King Charles at Whitehall, might almost have heard the report of the assassin's blunderbuss; and so might Dryden, sitting in his favourite front room on the ground-floor of his house on the south side of Gerrard Street, also hardly more than a couple of furlongs distant. Sir John Reresby, the writer of the Memoirs, who himself took an active part in securing the authors of the crime, thus relates what was immediately done:—"This unhappy gentleman (Mr. Thynne) being much engaged in the Duke of Monmouth's cause, it was feared that party might put some violent construction on this accident, the actors therein making their escape just for the time, and being unknown. I

happened to be at court that evening, when the king, hearing the news seemed greatly concerned at it, not only for the horror of the action itself (which was shocking to his natural disposition), but also for fear the turn the anti-court party might give thereto. I left the court, and was just stepping into bed when Mr. Thynne's gentleman came to me to grant him an Hue and Cry, and immediately at his heels comes the Duke of Monmouth's page, to desire me to come to him at Mr. Thynne's lodging, sending his coach for me, which I made use of accordingly. I there found his grace surrounded with several lords and gentlemen, Mr. Thynne's friends, and Mr. Thynne himself mortally wounded with five shots from a blunderbuss. I on the spot granted several warrants against persons supposed to have had a hand therein, and that night got some intelligence concerning the actors themselves. At length, by the information of a chairman, who had carried one of the ruffians from his lodging at Westminster to the Black Bull, there to take horse, and by means of a woman, who used to visit the same person, the constables found out the place of his abode, and there took his man, by nation a Swede, who, being brought before me, confessed himself a servant to a German Captain, who had told him he had a quarrel with Mr. Thynne, and had often ordered him to watch his coach; and that particularly that day the Captain no sooner understood the coach to be gone by than he booted himself, and, with two others, a Swedish Lieutenant and a Pole, went on horseback, as he supposed in quest of Mr. Thynne. By the same servant I also understood where possibly the Captain and his two companions were to be found; and having, with the Duke of Monmouth, Lord Mordaunt, and others, searched several houses, as he directed us, till six in the morning, and having been in close pursuit all night, I personally took the Captain in the house of a Swedish doctor in Leicester Fields."

On the Friday, the 17th, two other persons who were apprehended, a Pole (named Borosky) and a Swedish Lieutenant (named Stern), being examined before Reresby, and William Bridgman, Esq. another Middlesex magistrate, both confessed the share they had in the murder. Borosky said, "That he came into England by the desire of Count Königsmark (expressed to him by his merchant at Hamburg), but he knew not for what cause; but after he came, Count Königsmark told him, on Saturday the 11th instant, that he had a quarrel with an English gentleman that had set six persons upon him upon the road, in which conflict he was wounded, and two of the assailants were killed. Therefore,

since the said Mr. Thynne did attempt for to kill him, he would make an end of it. He further said, 'To-morrow will come a certain servant to conduct you to the Captain, and what he bids you to do, that you are to observe.' That a person came on Sunday morning about 11 o'clock accordingly, and carried him to another house, where he found the person that conveyed him to the Captain, who told him that he must do what he bid him to do, giving him a musquetoon, a case of pistols, and a pocket pistol (he had a sword before given him by the Count); and the Captain further added, repeating it five or six times, 'When we go out together, if I stop a coach, do you fire into it, and then follow me." They accordingly took horse, and, when they met the coach, the Captain, having a pistol in his hand, cried to the coach, 'Hold!' and at the same time bid this examinate fire, which he did accordingly. That he being further examined as to Mr. Hanson's knowing anything of this matter, he saith that he doth not know that he doth. That as to the arms, there were a blunderbuss, two swords, two pair of pistols, three pocket-pistols, two pair of boots, tied up together in a kind of sea-bed, and delivered to Dr. Dubartin, a German doctor, who received them at his own house."

Meanwhile, an active search continued to be made after Königsmark, in urging which Thynne's friends, the Duke of Monmouth and Lord Cavendish, are recorded to have been especially zealous.

About eight o'clock on the night of Sunday, the 19th, exactly a week after the commission of the murder, he was apprehended at Gravesend; and on the Monday following he was brought up, under a guard of soldiers, to London.

Thynne had survived his mortal wound only a few hours, during which the Duke of Monmouth sat by the bedside of his dying friend. He expired at six in the morning. Königsmark and the other three prisoners, after being examined, were lodged in Newgate; and, an indictment having been found against them by the grand jury, at Hick's Hall, on Monday, the 27th of February, 1681, they were the next day brought up to the bar at the Old Bailey, to be arraigned and tried; Charles George Borosky, *alias* Boratzi, Christopher Vratz, and John Stern, as principals in the murder; and Charles John Count Königsmark, as accessary before the fact. The trial began at nine o'clock in the morning.

The judges who presided at the trial were the heads of the three common-law courts: Sir Francis Pemberton, Chief Justice of the King's

Bench; Sir Francis North, Chief Justice of the Common Pleas; and Sir William Montagu, Chief Baron of the Exchequer.

At the trial, the evidence, and indeed their own confessions, clearly proved the fact of Borosky shooting Thynne, and Vratz and Stern being present assisting him.

With respect to Königsmark, beside the testimony of his accomplices, which of course went for nothing against him, the other evidence showed him living concealed in an humble lodging, and holding communication with the murderers, before and almost at the time of the murder. He had also fled immediately after the offence was committed and expressions of his, in anger against Thynne for espousing Lady Ogle, were given by the witnesses. To this it was answered by Königsmark, that the men accused were his followers and servants, and that of necessity he had frequent communion with them, but never about this murder: that when he arrived in London, he was seized with a distemper, which obliged him to live privately till he was cured; and finally, that he never saw, or had any quarrel with Mr. Thynne. This defence, though morally a very weak one, was certainly strengthened by the absence of direct legal proof to connect the Count with the assassination, and also by the more than ordinarily artful and favourable summing up of Chief Justice Pemberton, who seemed determined to save him.

The three principals were found guilty, and Königsmark was acquitted.

The convicted prisoners were hanged in Pall Mall, the 10th of March following; and Borosky, who fired the blunderbuss, was suspended in chains near Mile-End.

Count Königsmark found it expedient to export himself from this country as fast as he could, after he had paid his fees and got out of the hands of the officers of justice at the Old Bailey.

According to the Amsterdam Historical Dictionary, he went to Germany to visit his estates in 1683; was wounded at the seige of Cambray, which happened that same year; afterwards went with his regiment to Spain, where he distinguished himself at the siege of Gerona, in Catalonia, and on other occasions, and finally, in 1686, having obtained the permission of the French King, accompanied his uncle, Otho William, to the Morea, where he was present at the sieges of Navarin and Modon, and at the battle of Argos, in which last affair he so overheated himself, that he was seized with a pleurisy, which carried him off.

Such, at the early age of twenty-seven, if we may rely upon the account of his birth already quoted, was the too honourable end of this restless dare-devil, within little more than four years after the tragedy of his supposed victim Thynne, and his own narrow escape from the gibbet, to which he had been the cause of consigning the three associates or instruments of, most probably, his crime.

To end the story, we return to her with whom it began, the heiress of the long line and broad domains of the Percies. Lady Ogle, as she was styled, became an object of still greater public interest or curiosity than ever, on the catastrophe of her second husband. Her third husband was Charles Seymour, Duke of Somerset.

The fantastic exhibitions which this Duke used to make of his sense of the importance of his title and station, procured him the name, by which he is still remembered, of the Proud Duke of Somerset; and many stories are told of the heights to which he carried this sort of self-adoration.

The life of his wife, the commencing promise of which was so bright, and which was afterwards variegated with such remarkable incidents, not unmixed with the wonted allotment of human sorrow, terminated on the 23rd of November, 1722. The Duchess, when she died, was in her fifty-sixth year. She had brought the Duke thirteen children, seven sons, and six daughters, of whom only one son and three daughters arrived at maturity.

The Proud Duke of Somerset, three years after the death of his first Duchess, although then sixty-four, married the Lady Charlotte Finch, second daughter of Daniel, Earl of Winchelsea and Nottingham, who was much his junior, and in the course of a few years brought him two more daughters.

This second duchess has scarcely left any remembrance of herself, we believe, except a little story which connects her with her more distinguished predecessor:—once, it is told, she ventured to tap the Duke familiarly on the shoulder with her fan, on which he started, and cried out with great indignation—"Madam, my first wife was a Percy, and she never would have dared to take such liberty."

There is a tomb of white marble for Thomas Thynne, at the west end of the south aisle of Westminster Abbey, whereon his effigies is cumbent, and on the front, cut in relievo, the figure of him in his coach,

with three assassins, one stopping the horses, and a second securing the footman behind, whilst a third shoots him; as was his cruel case.

It was performed at the cost of his executor and brother-in-law, John Hall, and a Latin inscription was prepared and intended to be engraved on it; but Dr. Thomas Sprat, Bishop of Rochester, and Dean of Westminster, when the monument was erected, having the perusal thereof, he thought some passages in it offensive to the then government, and therefore would not suffer it to appear on the monument; so that there was only this inscription:

THOMAS THYNNE, of Longleate, in the county of Wilts, Esq., who was barbarously murdered on Sunday the 12th of February, 1682.

The inscription the Bishop of Rochester would not permit, as before mentioned, is as follows:

Juxta hoc Marmor,
Immaturo fato extinctus, jacet
THOMAS THYNNE, de Long-Leate in Agro
Wiltoniensi, Armiger:
Vir, illustri generi, haud dispar,
Cui magnas facultates Familia,
Majorem animum Natura dederat,
Religionem a Romanensium corruptelis vindicatam,
Et jura Patriæ, ac Civium Libertatem,
Non semel suæ fidei a Comprovincialibus commissa,
Nec minus Majestatem Imperii Britannici,
Summo studio coluit & propugnavit.
Uxorem duxit Elizabetham Comitissam de Ogle,
Antiquissimæ ut & Illustrissimæ familiæ de Percy,
Northumbriæ Comitum Filiam & Heredem
Unicam.
Hinc illæ Lacrymæ.
Summæ Felicitatis summa Invidia semper est Comes.
In unius Caput conjurarunt
Germanus, Suecus, & Polonus,
Nomina marmore indigna:
Quorum duo erant e satellitio Caroli Comitis
De Conningsmarke.
Heu! quam nefarium scelus moliebantur

Homines ad vim & cædam delecti ?
Cui Patrando unus non suffecerat populus,
Tres Armati, equis insidentes, & tenebris cooperti,
Unicum inermem, Curru sedentem, & nihil mali suspicantem,
Quatuorque plumbeis adoriuntur globis in viscera displosis,
Totidem emigranti animæ exitum aperuere.
Sed Scelus a tergo sequitur Vindicta,
Sicarii, non sine numine deprehensi,
Manifesti criminis, quod Germanus jussit,
Polonus exequebatur, in subsidiis collato Sueco,
Damnati laqueo omnes periere :
Quin & ipse Comes de Conningsmarke,
Sceleris non solum ut conscius, sed & author postulatus,
Et a turpi fuga retractus, capitis judicium subiit :
Verum juratorum suffragiis crimine solutus evasit ;
In quem tamen ex reis duo ad mortem
Usque facinus rejecerunt,
Tertius silere maluit.

THE TRIAL OF CAPTAIN DONELLAN FOR THE MURDER OF SIR THEODOSIUS BOUGHTON, BART.

This is perhaps one of the most celebrated, and the most extraordinary cases of poisoning on record. The great mystery attached to the whole horrible transaction, and the doubt which still remains as to the prisoner's guilt, render the story one of unfading interest and very curious investigation.

John Donellan, the unfortunate accused, was the son of a Colonel Donellan, and the scion of a respectable Irish family. At the early age of twelve years he entered the royal regiment of artillery, with part of which corps he went to the East Indies in 1754. On his arrival there, he changed into the 39th foot, but on that regiment being ordered home, he, with many others of its officers, had his Majesty's leave to remain in the service of the East India Company, without prejudice to their rank in the army. He there obtained a company, and much distinguished himself as a soldier: it is reported that he was particularly instrumental in the taking of Mazulapatam. However, being appointed one of the four agents for prize money, he condescended to receive presents from some black merchants, to whom part of their effects had been ordered to be restored. For this he was tried by a court martial and cashiered, but in consequence of a certificate from the war office, that he had behaved in the East Indies like a gallant officer, he was put upon half-pay in the 39th regiment. On Captain Donellan's retirement from active service, he became a man of fashion on the town, and his address recommended him to the office of master of the ceremonies at the Pantheon, an employment which he filled with credit and profit. His first acquaintance with the Boughton family arose at Bath, in the following manner. Lady Boughton and her daughter, arriving on a visit to that city, found every bed in every hotel preoccupied; and it was signified by the landlord of the hotel at which

they stopped, that they had no alternative but to sleep on the chairs of their sitting room. This fact coming to the knowledge of Donellan who had for some days occupied a chamber in the house, he requested the landlord to introduce him to the ladies, and he made them an offer of his bed in so polite a manner, that it was accepted. In return, the ladies invited the gallant Captain to breakfast with them in the morning, which the enterprizing Donellan improved into such an acquaintance, that soon after, in 1777, he married Miss Boughton, a sister of Sir Theodosius, the brother and sister being the only surviving children of Sir Edward Boughton, Bart. of Lawford-Hall, in the county of Warwick.

At the time of his sister's marriage, Sir Theodosius Boughton was just entering into his seventeenth year, and was a student at Eton where Mr. and Mrs. Donellan paid him their nuptial visit, and soon after took up their residence at Bath. Although Captain Donellan possessed little or no fortune of his own, it has been already observed, that the match was approved of by the friends of the lady; to conciliate whom, the Captain not only settled the whole of his wife's actual fortune upon herself, but also every thing which she might afterwards become entitled to, either by inheritance or legacy. Such was the apparently happy commencement of an alliance which ended so disastrously. The arrival of Captain and Mrs. Donellan at Lawford-Hall occurred in June, 1778, about a year after their marriage; and it appears they continued resident and domesticated there, from that time until the sudden death of Sir Theodosius, in 1780.

At Lawford-Hall, the influence of the Captain was very great. He was in the maturity of active life, that is, in his seven or eight and thirtieth year, while Lady Boughton was aged, and the baronet scarcely twenty; his ascendancy will therefore not appear surprising. Other circumstances tended to give him this weight; Lady Boughton was not a very intellectual woman, and her ill-fated son appears to have been occupied entirely by his pleasures. The first visit Donellan paid to the youth was at Eton; he had then just completed his sixteenth year, and was under the care of a medical gentleman, for a complaint. From Eton he was removed to Northampton, and placed under the private tuition of a Mr. Jones; and it is proved that he was also medically attended there. It further appears, that he indulged in the dangerous habit of prescribing for himself, and that he was continually taking physic; and lastly, he was again in ill health at the time of his death.

Such, with the addition of the unhappy Mrs. Donellan, was the family circle at Lawford-Hall; and if to the foregoing particulars it be added, that the latter was heir-at-law to the larger part of her brother's fortune, if he died without legitimate issue; and that the ostensible views of Captain Donellan were to take orders to enable him to enjoy the two livings in the gift of Sir Theodosius—the reader will be furnished with a tolerably faithful outline of the relative situation of this family, when the fatal circumstance occurred, which threw it into so much confusion, and which is now to be described from the testimony of Lady Boughton, as delivered before the Coroner. This particular deposition it will be proper to give somewhat at length, as it was the deponent's *first* account of the melancholy transaction; and because in the subsequent trial she materially varied in her explanation of the identical fact which decided the fate of the accused.

Anna Maria, Lady Boughton deposed that the deceased was her son; that for a considerable time before his death, he took various medicines which were sent to him from a Mr. Powell, a surgeon in Rugby, which sometimes occasioned the deceased to keep his room:—that on the thirtieth of August last, she went into his room to give him part of the medicine sent for him from the said Mr. Powell; and that about seven o'clock in the morning of the same day, she, by the directions of the deceased, gave him the medicine contained in one of the phial bottles then standing upon the mantel-piece of the deceased; that she perceived, upon pouring it out into the bason to give to the deceased, a large quantity of powder or sediment at the bottom of the phial; that it had a *very offensive and nauseous smell:* that the deceased complained very much of the nauseousness of the medicine, and that he thought he should not be able to keep it upon his stomach; that there was a label upon the bottle, in which the medicine was contained, expressing the medicine to be the purging potion for Sir Theodosius Boughton:—that she could not tell whether there were any other bottles in the deceased's room containing the same medicine:—that John Donellan, Esq. her son-in-law, *being informed by her of the situation the deceased was in, came up stairs to her;* and after being informed by her of the medicine she had given him, desired her to give him the bottle; and that he then *put water into the bottle, and poured it and the settling of the bottle out together; put his finger into it, and informed this examinant it had a nauseous taste*:—that the deceased, immediately after taking the medicine, seemed as if he was going into convulsions for a considerable

time; but after that appearance had subsided, the deceased seemed as if he was going to sleep; upon which she left the room, and returned back in the space of about five minutes, when she found the deceased with his eyes fixed, his teeth set, and the froth running out of his mouth; and that he expired in a few minutes afterwards:—that the composition or mixture contained in the bottle given by her to the deceased, *was something in colour to that produced and shewn to her by Mr. Powell*, at this the time of her examination, but to the smell very different, to the best of her information and belief.

One of the strongest circumstances attendant upon a death so alarming was the subsequent conduct of Lady Boughton: it would seem from her further deposition on the succeeding day, and on the trial, that the rinsing of the bottles by Captain Donellan struck her as exceedingly suspicious and improper, yet neither these suspicions, nor the suddenness of her son's death upon the swallowing of a medicine, induced her to take the arrangement of the funeral out of his hands, or even to interest herself to have any surgical or legal inspection of the body. In so calm a way, indeed, did this calamity pass over, that on the Saturday following the Wednesday on which it took place, the deceased was absolutely soldered up in his coffin.

Public attention, however, was excited; and poison being generally suspected, the report of these suspicions at length reached the ears of the assistant guardian, Sir William Wheeler, who wrote a polite note to Captain Donellan, informing him of the nature of the prevalent rumour, and of the necessity there was to do it away by a professional examination of the body. The reply of Captain Donellan was prompt and acquiescent; and he also expressed a wish, that Sir William Wheeler himself would attend. The three practitioners, with an assistant, however, arrived by themselves, and were informed by the Captain, that they were called upon to open the body of the deceased—"for the satisfaction of us all;" but he did not mention the suspicion of poison. It is remarkable that upon this intimation, the gentlemen, finding that owing to the putridity of the body, the operation would be attended with danger to themselves, declined it—on the ground, that in its then state, it would not determine the cause of the death; and Captain Donellan was blamed for not inducing them to operate, at all hazards, by resting on the suspicion of poison; or, in other words, on the suspicion that he was himself the murderer of his brother-in-law. Afterwards, in giving Sir William Wheeler an epistolary account of this visit, he left it ambiguous,

whether the body had been opened or not; but then, on the other hand, he requested one of the medical gentlemen himself to call on the baronet, who promised to do so, but did not.

On the next morning, Mr. Bucknill, a surgeon of Rugby, having heard that the former gentleman had declined operating, called at Lawford Hall, and offered to take out the stomach at his own risk; but the Captain declined on the ground of unfairness to the other professional gentlemen, unless directly authorized by Sir W. Wheeler; and, in consequence, Mr. Bucknill went away. Of this visit Sir William heard, and wrote again, requesting that Mr. Bucknill and his own apothecary, Mr. Snow, might do what it was so desirable should be done; but owing to their professional engagements, the two gentlemen missed each other: Mr. Bucknill, who came first, was called away to a dying patient; and when he returned, Mr. Snow had arrived, and from a sense of danger, having declined opening the body, had departed. Captain Donellan, therefore, upon this, proceeded with the funeral, which took place the same day, between three and four o'clock.

In all these transactions, it is very remarkable that although the suspicion of poison could, and did, attach to Captain Donellan only, yet he was strangely permitted to arrange every proceeding which was to produce satisfaction, and that, by the mother of the deceased, who was very early alarmed at his equivocal conduct.

But, although the interment was effected, when it became generally known that the body had not been opened, the minds of all orders of people were excited, and it was laudably insisted upon by the gentlemen of the neighbourhood, that the deceased should be taken up, the coroner be called, and a surgical examination take place by course of law. This was done accordingly, and the depositions on the first day of examination were in substance as follow.

That of Lady Boughton has already been given.

Mr. Powell, the apothecary, who supplied the draught, the taking of which was followed by the death of Sir Theodosius, deposed, that it was a mixture consisting of jalap, rhubarb, spirits of lavender, simple syrup, and nutmeg water.

Sarah Steane, who laid out the deceased, simply stated that to the time of the body being placed in the coffin, it appeared the same, in every respect, as any other corpse.

William and Samuel Frost, servants, deposed that the evening and morning preceding his death, the deceased appeared to them to be in good health and spirits.

Mr. Wilmer, a surgeon, one of the professional gentlemen who declined opening the body in the first instance, because its putridity rendered satisfaction from the operation hopeless, deposed, that such had been his expressed opinion; and the conclusion to be drawn from the medical evidence he now gave was that the mixture furnished by Mr. Powell could not at any time occasion the death of the deceased; and that, for the reasons before suggested by him, he was induced to believe that it was "*then impossible to tell what occcasioned the deceased's death.*"

Doctor Rattray corroborated the whole of the above; but added, that he believed, from the deposition of Lady Boughton, that the medicine administered by her caused the death of her son.

Mr. Snow, a surgeon, merely confirmed the depositions of Mr. Wilmer and Doctor Rattray generally.

Mr. Bucknill deposed to the same purpose, with the additional confirmation of Doctor Rattray's opinion, as to the draught administered by Lady Boughton being the immediate cause of her son's death.

Lady Boughton, further, on the second day's examination, declared, that when Captain Donellan was told of the effect of the medicine upon the deceased, he asked where the bottle was that had contained it; and, upon it being pointed out to him, he "swilled the bottle out with water, and threw the water and the medicine which was left at the bottom of the bottle *upon the ground.*" That, upon her expressing her surprise that he should do so, he said, that it was in order to taste it; but that he did not taste it, but proceeded to empty a second bottle, which stood upon the deceased's mantel-piece, but what was contained therein she knew not. That, after throwing away the contents of the second bottle, Captain Donellan ordered Sarah Blundell, who was then in the room, to take the same away; but that examinant objected to such removal, and desired the servant to leave them where they were; that Captain Donellan however still persisted in his orders; and she believed they were removed accordingly. Lady Boughton further observed, that upon her return home from the first examination, Captain Donellan, who had heard it taken, had expressed surprise and displeasure at her then deposing that he had rinsed the bottles, and told her that she was only obliged to answer such questions as should be asked. That she had heard Captain Donellan advise her son to keep his medicines in his first room, and not in an inner-room, which he kept locked; whereas any part of the family might have access to the former. Finally, she deposed that the cir-

cumstance of the said Captain Donellan's swilling the bottles, led her to suppose *"that some unfair dealings had been carried on respecting her son, and that he had died by the medicines she had given him."*

The Coroner's Jury brought in a verdict of Wilful Murder against Captain Donellan, and he was immediately committed for trial.

In consequence of the assizes having been recently concluded, Captain Donellan's trial did not come on until seven months after the alleged offence, during which interval his case became the constant subject of public discussion.

The trial took place at Warwick on the 30th March 1781: The judge presiding was that great lawyer, Sir Francis Buller, a man as able as severe.

Mr. Powell, the apothecary, the first witness, proved, as before, the nature of the draughts sent by him to Sir Theodosius Boughton; and described him to have been at the time slightly indisposed, not seriously, as Captain Donellan would often infer, and that he gave him nothing but cooling physic and an embrocation. That when he reached Lawford Hall, in consequence of an express informing him of the dangerous state of Sir Theodosius, the latter had been dead an hour; that he met Captain Donellan in the court yard, who went with him to see the corpse, in which he observed nothing particular; that upon asking how the deceased died, the Captain replied in convulsions, but put no questions to him in return; and that the general intent of the prisoner seemed to be to promote an idea that Sir Theodosius, who had returned in the afternoon from fishing, had taken cold.

Mr. Powell, after proving the innocency of his own prescription, asserted, that the disorder of Sir Theodosius was slight, and that he gave him nothing but cooling physic and an embrocation.

This gentleman, though his answers in court seemed to confine his prescriptions to cooling physic and an embrocation, had administered boluses of calomel.

The evidence of Lady Boughton on the trial varied materially from both her depositions before the coroner. The general substance of her evidence, as affecting the prisoner at the bar, may be reduced to the following points:

That Mrs. Donellan would inherit 1200*l.* per annum by the death of Sir Theodosius.

That when Lady Boughton once talked of quitting Lawford Hall, the prisoner advised her not to do so, as her son was in a bad state of

health, and she knew not what might happen, perhaps he might never reach his majority—a prediction which her ladyship then understood to allude to the danger incurred by Sir Theodosius *in hunting*.

That her son was about to receive a week's visit from a Mr. Fonnereau, and to depart with him on a visit in return.

That one day, Captain Donellan, in her hearing, advised Sir Theodosius to keep his medicines in his chamber, which was always open, rather than in an inner room, which was usually locked.

That Captain Donellan was absent from his wife and Lady Boughton on the evening when the medicines arrived, and accounted for his absence by saying, he had been to see Sir Theodosius fishing, and that he would have persuaded him to come in lest he should take cold, but he could not.

That upon Captain Donellan's coming into the room, and asking in what manner Sir Theodosius was taken ill, he was shewn the two draughts sent by Mr. Powell, the last of which had proved so fatal; that he took up one of them, and said, "is this it?" and upon being answered yes, poured some water out of a water-bottle into the phial, shook it, and then emptied it out *into some dirty water, which was in a wash-hand bason*. That her ladyship observed to him, that he ought not to do so, but that he immediately snatched the other bottle, poured water into it, and shook it, and then put his finger to it and tasted it, saying, when remonstrated with upon the impropriety of meddling with the bottles, that he did it to taste the contents, but that he did not taste the rinsings of the first phial at all.

That the prisoner desired Sarah Blundell to take away the bason, the dirty things, and the bottles, and that he put the bottles into her hands; that her ladyship directed the servant to let the things alone, and took them from her; but that the prisoner, while her back was turned, gave the bottles to her again, as the said servant, who is since dead, informed her. That, previous to this second order, he had also directed that the room might be cleaned, and the clothes thrown into an inner room.

That, during the whole of the foregoing scene, Sir Theodosius was not entirely dead.

That, some time afterwards, when her ladyship went into the parlour, Captain Donellan observed to his wife, in her presence, that her mother had been pleased to take notice of his washing the bottles out, and that he did not know what he should have done, if he had not thought of saying he put the water into it to put his finger to it to taste it. That

her ladyship turned away to the window without reply, upon which he repeated the foregoing observation, and rang for the coachman to prove the time of his going out that morning.

That, upon returning from the first examination before the coroner, Captain Donellan said to his wife, before her ladyship, that she (Lady Boughton) had no occasion to have mentioned his washing the bottle; and that she should only have answered the questions put to her.

Mary Lynes, the house-keeper, proved, that Captain Donellan frequently amused himself with distilling roses; and Francis Amos gardener, that he was with Sir Theodosius the whole time he was fishing, the evening before he died, and that Captain Donellan did not come near them. This witness also proved that Captain Donellan had brought him a still, with wet lime in it, to clean, a few days after the young baronet's death.

William Croft, one of the coroner's jury, swore that he saw the prisoner pull Lady Boughton by the sleeve, when she first deposed that he had rinsed the phial.

Sir William Wheeler proved the tenor of his correspondence with Captain Donellan, relative to opening the body.

The three professional gentlemen, who first attended to open the body, deposed, that they would have done so, at all events, had they been informed that poison was suspected; they also described the poisonous nature of laurel water, and proved that its effects upon animal life were similar to those of the draughts given to Sir Theodosius. They also gave a positive opinion that the deceased died by a poisonous draught administered by Lady Boughton, and that the appearance of the body was such as might follow the swallowing of a strong vegetable poison.

Doctors Ashe and Parsons, celebrated physicians, corroborated the opinions of the foregoing witnesses.

Mr Bucknill, the surgeon who had volunteered to operate in the first instance, related his first and second visit to Lawford Hall, to open the body, as already detailed.

Such was the tenor of the evidence for the prosecution, with the addition of the following remarkable testimony.

John Darbyshere deposed that he had been a prisoner in Warwick gaol for debt; that Mr. Donellan and he had a bed in the same room for a month or five weeks. He remembered to have had a conversation with him about Sir Theodosius being poisoned. On his asking him whether the body was poisoned or not, he said, "There was no doubt

of it." The witness said, "For God's sake, Captain, who could do it?" He answered, "It was among themselves, he had no hand in it." The witness asked, "whom he meant by themselves?" He said, "Sir Theodosius himself, Lady Boughton, the footman and the apothecary." The witness replied, "Sure, Sir Theodosius could not do it himself:" He said "he did not think he did." The witness answered, "The apothecary could hardly do it; he would lose a good patient; the footman could not have the least interest in it; and it was unnatural to suppose that Lady Boughton would do it." He then said, how covetous Lady Boughton was; she had received an anonymous letter the day after Sir Theodosius's death, charging her plump with poisoning him; that she called him and read it to him and she trembled; she desired he would not let his wife know of that letter, and asked him if he would give up his right to the personal estate, and to some estates of about £200 a-year belonging to the family. The conversation was about a month after the Captain came into the gaol. At other times he had said, "that he was innocent; it was impossible he could do a thing that never was in his power."

In his defence the prisoner asserted, 1. His readiness to have the body examined. 2. The impossibility of his gaining anything by Sir Theodosius's death: the Baronet's property being settled upon his wife (Mrs. Donellan) in such a manner that he could have no command over it. 3. That he had frequently interposed to save the young baronet from dangerous scrapes he had been liable to fall into. As to the principal fact deposed to by Lady Boughton,—the rinsing of the phials, the prisoner accounted for it, by saying, that when informed by Lady Boughton of what had happened, he asked her what she had given to her son, and where the bottle was, and, upon its being pointed out to him, took it and held it up to the light; and finding it apparently clean and dry, put a tea-spoonful of water into it, rinsed it well, and poured it into a small white bason then on the table, in order to taste it with his finger, which he did several times, and declared it very nauseous. That he also tasted several more medicines, which stood on the mantel-piece, on which there were many phials and gallipots, which smelt very offensively; and observing Lady Boughton begin to put the room in order, he told Sarah Blundell to help her ladyship, and particularly to remove a chamber-pan; when she began to take away the phials, he very innocently handed some to her.

The testimony, as we have just seen, of the three medical gentlemen proved, that they would have opened the body, at all risks, if they had been

aware of the suspicion of poison. The same gentlemen, with Doctors Parsons and Ashe, believed, that the draught administered by Lady Boughton, caused the death of her son. But the eminent surgeon John Hunter called for the defence, differed from them. His opinion was that, from the symptoms stated, Sir Theodosius might have died of epilepsy or apoplexy, and that from the appearances described in the defective examination of the body which took place, no inference could be made that Sir Theodosius Boughton died of poison. Nay, not even a suspicion could arise. Again on his cross examination, this great surgeon admitted, that death following the taking of a draught was suspicious, but he wholly denied that it was necessarily caused by it; and asserted, that any symptom and appearance on opening the body of the deceased, or, as described by Lady Boughton, might be furnished by epilepsy or apoplexy. As the father of Sir Theodosius died of the latter disorder, he was asked if it were likely to attack a thin young man under a course of cooling physic; he answered, certainly not so likely; but that he had known two instances of delicate young women dying of apoplexy.

Judge Buller summed up with his mind evidently impressed with a belief that the prisoner was guilty, and it is but fair to state that this experienced and sagacious lawyer ever afterwards remained of the same opinion, that Donellan committed the crime.

The principal features of the summing up, were as follows. His lordship stated that there were two questions for the decision of the jury.—1st. Whether the deceased died of poison? 2ndly. Whether that poison was administered by the defendant? As to the first question, whether the deceased died of poison, they had the evidence of four or five gentlemen of the faculty, that the deceased *did* die of poison; on the other side they had but the *doubt* of another. As to the second question, whether that poison was administered by the defendant, a great deal of evidence had been laid before them, naturally of a circumstantial nature, as no man would be weak enough to commit the act in the presence of other persons, or to suffer them to see what he did at the time; and therefore it could only be made out by circumstances, either before the committing of the act,—at the time when it was committed,—or subsequent to it. And a presumption, which necessarily arose from circumstances, was very often more convincing and more satisfactory than any other kind of evidence, because it was not within the reach and compass of human abilities to invent a train of circumstances which should be so connected together as to amount to a proof

of guilt, without affording opportunities of contradicting a great part, if not all of those circumstances. The circumstantial evidence in the present case which tended to prove the guilt of the defendant was 1st, the prisoner's doubts for some weeks prior to Sir Theodosius' death, that he would not attain his majority, as sworn to by Lady Boughton; and 2ndly, the prisoner's falsehood, on the night prior to the baronet's death, when he stated to Lady Boughton and his wife, that he had advised Sir Theodosius not to continue fishing lest he should catch cold, as sworn to by a servant, who stated that the Captain had not been near Sir Theodosius, and therefore could not have given him that advice; 3rd, his washing the bottles, and sending them out of the room, in direct opposition to the wishes of Lady Boughton; 4th, his extraordinary conduct towards the gentlemen of the faculty; 5th, his continual assertions as to the bad health of the deceased, assertions which had been frequently contradicted by Mr. Powell, the family surgeon, and others, during the investigation of the case; 6th, his making use of a still, for a long time before the death of the baronet, and immediately after the baronet's death it being found wet and filled with lime; 7th, the prisoner's conduct before the coroner.

The jury found the prisoner guilty, and he received judgment of death.

In passing sentence, the learned Judge observed that the offence of which the prisoner stood convicted, next to those which immediately affected the state, the government, and the constitution of the country, was of the blackest dye that man could commit. For, of all felonies murder was the most horrible, and of all murders poisoning was the most detestable. Poisoning was a secret act against which there were no means of preserving or defending a man's life, and in the case of the defendant, it was more, if possible, aggravated. The manner and the place in which the dark deed had been transacted, and the person on whom it had been committed, enhanced greatly the guilt. It had been committed in a place, where suspicion, at the instant must have slept; where the murderer had access as a bosom friend and brother; where he saw the rising representative of an ancient family reside in affluence; but where ambition led him proudly but vainly to imagine that he might live in splendour and in happiness, if his victim were removed. That the greatness of the offence had been caused by the greatness of the fortune, was his, the Judge's, full and firm conviction. So that avarice was the motive, and hypocrisy at once the instrument and the veil. That a doubt as to the prisoner's guilt could not for a

moment exist even in the minds of the most scrupulous, or of those of the meanest capacity. The traces of murder were ever pointed out by the hands of Providence, therefore all the care and the foresight of the most cunning and the coolest offenders could not guard against some token, some unthought of circumstance which should open a door to discovery, that the assassin had conceived to have been effectually barred. In the case of the prisoner, his misrepresentations to Sir Wm. Wheeler, his endeavours to prevent a full enquiry and discovery of the truth of the case; the strange conversations which he had held at different times; and above all, the circumstance of rinsing out the bottle left his guilt beyond the shadow of a doubt. This crime which, in the lowliest serf, would be truly horrible, was in the prisoner's case, in his situation in society, and from the education he had received, rendered of a much deeper cast, and was one that called for deep contrition—sound, unfeigned and substantial repentance. After invoking the Almighty Being to grant him that contrition and repentance of mind, the learned Judge concluded, by sentencing the prisoner to undergo the extreme penalty of the law.

Donellan suffered, pursuant to his doom, on the 1st of April, 1781, at Warwick; and he died with perfect resignation. His last words were: "As I am now going to appear before God, to whom all deceit is known, I solemnly declare that I am innocent of the crime for which I suffer. I have drawn up a vindication of myself, which I hope the world will believe, for it is of more consequence to me to speak truth than falsehood, and I have no doubt that time will reveal the many mysteries that have arisen at the trial." From papers left behind him for the purpose, a very elaborate and well written defence was composed, and published almost immediately after his death; it produced a great sensation at the time.

We conclude wi'h a few particulars of the subsequent history of the family of Boughton:

At the decease of Sir Theodosius, the baronetcy reverted to his cousin and male heir Edward Boughton, Esq., who pulled down the mansion of Lawford Hall, the scene of the fearful event to which the trial refers, and sold the estates in the counties of Warwick and Leicester. He never married, and was succeeded in the title by his brother, Sir Charles William Boughton-Rouse, of Rouse Lench, co. Worcester, whose son and heir is the present Sir William Edward Rouse Boughton, Bart., of Downton Hall, co. Salop.

Mrs. Donellan, who inherited a portion of her brother, Sir Theodosius's property, married for her second husband, Sir Egerton Leigh, Bart., and by him was mother of an only daughter, Theodosia de Malmsburgh, married in 1811 to John Ward, Esq., who in consequence assumed the additional surnames of Boughton and Leigh. Lady Leigh's third husband was the celebrated Barry O'Meara, author of a "Voice from St. Helena."

THE TRIAL OF ROBERT FEILDING, COMMONLY CALLED BEAU FEILDING, FOR BIGAMY, IN MARRYING THE DUCHESS OF CLEVELAND.

This is altogether a singular case, independently of its connection with the celebrated Duchess of Cleveland, then in her old age. Robert Feilding, the defendant in this trial, and the Orlando the Fair of the Tatler, was so fine a man, as to be generally designated Beau, or Handsome Feilding: he was very notorious in his time, and is frequently mentioned in the contemporary periodical, and other publications Swift places among the persons who made a mean, contemptible figure, in some action or circumstance of their lives, this "Beau Feilding at fifty years old, when in a quarrel on the stage, he was run into his breast, which he opened, and shewed to the ladies that he might move their love and pity, but they all fell a laughing."

The Duchess of Cleveland was the well known Barbara Villiers, only child of William, Viscount Grandison, wife of Roger Palmer, Earl of Castlemaine, and first mistress to Charles II. after his Restoration. Indeed according to one historian, Oldmixon, it was currently reported, that on the very evening of the king's coming to London, his majesty took her from her husband. In 1661, Roger Palmer was created Baron Palmer, and Earl of Castlemaine, in the peerage of Ireland, of which honours it has been said, he was not very proud; and in 1670, his wife was created Baroness Non-Such, Countess of Southampton, and Duchess of Cleveland, in the peerage of England. The Duchess of Cleveland, like her colleague the Duchess of Portsmouth, seems to have been a compound of misconduct, and avarice.

The trial took place at the Old Bailey, on the 4th December, 1706. The charge in the indictment was, that the said Robert Feilding, on the 9th November, in the fourth year of the reign of Queen Anne, at the

parish of St. James', Westminster, in the county of Middlesex, took to wife one Mary Wadsworth, spinster, and that afterwards, viz. on the 25th of the same month of November, in the year aforesaid, at the parish of St. Martins-in-the-Fields, in the said county, he did feloniously take to wife the Most Noble, Barbara, Duchess of Cleveland, the said Mary Wadsworth, his former wife, being then alive.

The case was stated by the senior counsel for the crown, Sir James Mountague; and a more singular matrimonial history never was related.

Sir *James Mountague.* My lord, and gentlemen of the jury, I am of counsel with the Queen against the prisoner, Mr. Robert Feilding, who stands indicted, for taking to wife Barbara Duchess of Cleveland, after he had before married one Mary Wadsworth, who is still alive: this is a crime that amounts to felony; and though the law doth not take away from him that shall be convicted thereof, the benefit of his clergy; yet, since it is such a crime, as doth take away from the prisoner the assistance of counsel, I shall only state matter of fact, which is as followeth:—About a year ago, or a little better, there was a young lady left a widow by Mr. Deleau, and reputed a great fortune; Mr. Feilding thinking himself qualified for the greatest fortune, had a design upon this lady, and in August, 1705, he applied himself to one Mrs. Streights to consult with her, and contrive some method how he might have access to court this widow. This Mrs. Streights had no acquaintance with the widow herself, but knew Mrs. Charlotte Villars was acquainted with her, and used to cut her hair; so the best thing they could think of at that time, was to make Mrs. Villars their friend, that by her means he might have admittance into the lady's company; for he did not question that if the lady had but once a sight of his very handsome person, she would have the same affection for him, that he had met with from other ladies, even on their first seeing him. Mrs. Villars was promised 500*l.* to bring this affair about; and though she doubted with herself whether she could ever accomplish it, yet by these means she might perhaps make a penny of it to herself: and thereupon she promises Mrs. Streights to use her endeavour to serve the major-general, meaning Mr. Feilding, though Mrs. Villars could not be sure such an overture would be well received by Mrs. Deleau: yet being well acquainted with one Mary Wadsworth, a young woman, not much unlike in person to Mrs. Deleau, she imagined it would be no difficult

matter for her to set up the said Mrs. Wadsworth to represent Mrs. Deleau; and accordingly it was done, and Mr. Feilding proved so intent upon the matter, that he went in a few days to Doctors' Commons, to see for Mr. Deleau's will, (and found thereby that Mrs. Deleau was left very considerable). And that he might judge the better whether she were truly the fortune she was represented to him, he took a copy of the said will, and soon after went to Mrs. Villars, and told her, that what Mrs. Streights had said concerning Mrs. Deleau's fortune was true: and being very well satisfied with her fortune, he was resolved to get a view of her. Soon after, Mr. Feilding went to Tunbridge, and after two or three days' stay there, returned and called at Waddon, the place where Mrs. Deleau resided, with a pretence to see the house and gardens, but in reality it was to see the widow; he thought nothing else was then to be done, but to give the lady a sight of his handsome person he designed to lay at her feet; but it happened that the lady would not be seen herself, but her servants were permitted to shew him the gardens, and he fancied himself that he had had a sight of Mrs. Deleau too; for a kinswoman of Mrs. Deleau's looking out into the garden while he was there, gave him the sight of a woman at the window, and he presently concluded it could be nobody but Mrs. Deleau admiring Beau Feilding. About three days after Mr. Feilding's return from Tunbridge, which was about a fortnight after St. Bartholomew's-tide last was twelvemonth, he told Mrs. Villars of his calling at Waddon, and that he had acquainted the Duchess of Cleveland of the fine gardens that were there, and he said that her Grace had a great desire to see them, and therefore directed Mrs. Villars to go from her Grace to Mrs. Deleau to ask the favour of her to permit her Grace to see the house and gardens. Accordingly Mrs. Villars went down to Waddon; and Mrs. Deleau treated her very civilly, and told her whenever her Grace pleased, she should see her house and gardens; but as she was a widow she could not attend upon her Grace: but though the Duchess was expected after this, yet she did not go, for indeed she did not know any thing of the message. So the next time Mr. Feilding attempted to see her, was at a horse-race at Banstead-Downs, whither he went for that purpose, but did not see her. After this, or some time before, he sent a letter to Mrs. Deleau's house, but the servants, when they saw the name to it, knowing the character of Mr. Feilding, threw it into the fire. When Mrs. Villars found that the Duchess of Cleveland knew nothing of her being sent to Waddon, and that it was only

a contrivance of Mr. Feilding's to get an opportunity of seeing Mrs. Deleau, and that in truth he had never seen her, she resolved to play trick for trick with him, and thereupon proposed the matter to Mary Wadsworth, the woman I before mentioned to be of her acquaintance, but one that Mr. Feilding did not know, and one that would not worst herself much by such an undertaking, whether it succeeded or not. Mrs. Wadsworth upon the first opening of it readily embraced the offer: and thereupon Mrs. Villars went to Mr. Feilding and told him she had proposed the matter to the lady (Mrs. Deleau) which she at first rejected, but at last did give a favourable ear to it; and that she did not fear, but if matters could be prudently managed, his desires might be accomplished.

A little before my lord mayor's day last was twelvemonth, she told Mr. Feilding that she had at length obtained of the lady the favour of a promise of an interview, and that she was shortly to bring her to his lodgings, but he must take care not to let her know they were his lodgings, or to give her the least cause to suspect he had any thing to do there: accordingly Mrs. Villars, the evening of my lord mayor's day, brought Mrs. Wadsworth in a mourning coach and widow's dress to Mr. Feilding's lodgings: he was not within at the time they came thither, but being sent for came in soon after, and was extremely complaisant for some time; but at length, though he had been cautioned not to let the lady know they were his lodgings, yet he could not forbear shewing her his fine clothes, and what furniture he had, and in a little time after sent for Mrs. Margaretta to sing to her; and pretended he was so extremely taken with her, that nothing would satisfy him but being married that night; but she, with a seeming modesty, checked his forward behaviour, and made a shew of going away in displeasure; but before they parted, he prevailed upon her to promise not to put off their marriage, longer than Wednesday seven-night. My lord, Mr. Feilding rightly judged by this conversation what an interest he had fixed in the lady, and looking upon himself to be sure of her, he actually went to a goldsmith, and bespoke a ring, and directed himself what posy should be engraved. When the day came which had been first agreed on, sham pretences were made, not to seem over hasty in so serious a matter, and the marriage was put off till the Friday following, being the 9th of November last was twelvemonth; at which time Mrs. Villars and the lady came again to Mr. Feilding's lodgings, where he received her with an extraordinary transport of joy, and the marriage must immediately be pro-

ceeded on; but she for some time framed several put-offs, and at length made an offer to have gone away: but Mr. Feilding by no means would permit her to go, without making her his own, which he was resolved should be done presently; and to make all things sure, he ran out and locked the chamber-door to keep her and Mrs. Villars in, whilst he went for a priest; and taking coach immediately drove to Count Gallas's, the emperor's envoy; when he came to his gate, he enquired of the porter for one Francisco Drian, that was styled, The Father in Red, upon account of a red habit he usually wore; but he not being within, Mr. Feilding asked for another Father; and one Father Florence was called to him, whom he acquainted with the business he came about; but whilst he was treating with Father Florence, the Father in Red luckily came in, and Mr. Feilding immediately took him away with him in the hackney-coach to his lodgings. My lord, and gentlemen, we shall shew you, that this Father in Red stayed there about an hour, and then went away.——We shall shew your lordship likewise, that Mr. Feilding and Mary Wadsworth supped together, and after supper he was actually married to Mrs. Wadsworth. And that this marriage was complete, we shall prove by several particulars, viz.: That all ceremonies were performed that are usual upon such occasions; and the next day the lady and Mrs. Villars went away, and as Mr. Feilding supposed, to Waddon, the widow Deleau's house, to which place your lordship and the jury will find he directed his letters to her afterwards, and in the superscriptions styles her the Countess of Feilding. To corroborate this evidence we shall likewise prove to your lordship, that about a week after he was with her again at the very same lodgings; and we can make it appear that they met three several times since this first night, twice before, and once after his marriage with the Duchess of Cleveland. My lord, we shall shew you, that he made her presents, furnished her with money, and treated her as his wife, until the cheat was found out, which was not till May after; and then finding how he had been served, that instead of marrying a fortune of 60,000*l.* he had been imposed upon, and married one not worth so many farthings, he discarded her in great wrath.

The evidence of the first witness, Mrs. Villars, as to the cruel deceit she put upon Mr. Feilding, is an amplification of the learned counsel's narrative, but it is of too curious interest to be omitted.

Mrs. *Villars*. My lord, there came one Mrs. Streights to my lodgings, and wanted to speak with me, (it was Bartholomew-tide was twelvemonth) but I was not at home; when I came home, they told me Mrs.

Streights had been there, and left word that I was always out of the way when it was to do myself good; she said it would be five hundred pounds out of my way if I did not come to her. I met with her and Mr. Feilding, and being acquainted with Mr. Feilding's design upon Mrs. Deleau, he asked me whether I knew the lady? I said I had no particular acquaintance with her, but I used to cut her hair. He told me that he was in love with her, and asked me, whether I would assist him in his courtship? And whether a marriage might be brought about? I told him I could not tell, I did not know whether I had that interest in the lady as to be made serviceable in such a design. Mr. Feilding enquired very strictly after her, and said, he would try means to come into her company, that he might gain her acquaintance: upon which we parted at that time.—And about three days after Mrs. Streights came to my house again, and said, Mr. Feilding would speak with me. I went to him; and he told me, he found that the lady was worth 60,000*l.* as he had been told before. He asked me where it was she lived? I told him, in Copthal-court, near the Change. I told him likewise where her country-house was; that it was at Waddon in Surrey. Mr. Feilding told me, he would go to Tunbridge, and call by the way to see the gardens; and by that means he might have an opportunity of seeing Mrs. Deleau; which he did accordingly. I was sent for again; and he told me he had seen the gardens, and they were very fine: and that he saw the lady through a casement; and that she might have the more perfect view of him, he took divers turns in the gardens, pulled out his watch, and set it by the sun-dial: and that he came round the country, and almost murdered his horses, to get a sight of her. But he desired to be in her company, that he might have a full view of her. He desired me to go to Mrs. Deleau, and tell her, that the Duchess of Cleveland had heard a great character of her gardens, and was very desirous to see them.—I went and acquainted Mrs. Deleau with it; she said she would not refuse a woman of her quality, but would take it as a great favour, to shew her any thing that belonged to her; but desired that it might not be that week, but the week following; because she was to see a race on Banstead Downs. I told Mr. Feilding this; and he made answer for the Duchess of Cleveland, and said the Duchess was not well; and could not go to see the gardens. When I found that Mr. Feilding did not send me from the Duchess, but from himself, I was out of countenance, that I should innocently impose upon the lady. Mr. Feilding told me, he would go and see the race upon the Downs; and when he

came back, he would send for me, and acquaint me whether he had seen the lady. And when he came to town again, he sent Mrs. Streights to me to come to him; and when I came to him he told me he saw Mrs. Deleau, he believed upon the Downs. Mr. Feilding made a bow to them, and they to him. He said from thence he went to Epsom, and sent a letter to be delivered into Mrs. Deleau's own hands, by a servant of his, not in a livery. I think, it was accordingly delivered. Mr. Feilding told me, Mrs. Deleau read it, and said it required no answer: and said no more. Mr. Feilding asked me whether I could not get a letter to Mrs. Deleau; he said, he was much in love with her. I told him, I believed he was mistaken: and that it was another whom he saw.—I perceived that he had no knowledge of Mrs. Deleau.—I acquainted a young woman (Mrs. Wadsworth, whom I supposed he might have seen,) with his inclination: she said, she did not expect to be so happy; but wished it might be so. I engaged to Mr. Feilding to do what I could to bring it about.—There were divers letters passed between them till my lord mayor's day. Divers presents were sent from Mr. Feilding, by me, to the lady. The first present was a gold apron struck with green: that was the first present Mr. Feilding sent to Mrs. Wadsworth, whom he thought was Mrs. Deleau all the while; but it was Mrs. Wadsworth. I did not think Mrs. Deleau, who was a great fortune, would agree to marry a man of Mr. Feilding's character. Mr. Feilding kept sending of presents and letters from that time, from the latter end of Bartholomew-tide, to my lord mayor's day. He sent her a suit of white satin knots and gloves, and other things. He desired I would bring her to his lodgings on my lord mayor's day, at night; which I did, about nine o'clock, in a mourning coach. Mr. Feilding was not at home, but came immediately. When he came in, he fell down upon his knees, and kissed her; and expressed abundance of fond expressions. He asked her, why she stayed so long? And whether she loved singing? He said he would send for Margaretta to come up. When she came, Mr. Feilding bid her sing the two songs which he loved;—which she did; the one was, Charming Creature; and the other was, Ianthe the Lovely. After which, Mr. Feilding sent for two pints of wine, and some plum cakes. He urged very much to marry her; but she declined it, and made him a promise to come to him the Wednesday following. In the interim she sent him a letter, to acquaint him she could not come according to her appointment; but she would come to him on the Friday following, which was the 9th of November. Then he sent her another letter, to desire her not to fail

but come to his arms; and told her, that there wanted nothing but the holy father to join their happiness; for their hearts were all one already. And when Friday came, Mrs. Wadsworth and I went to Mr. Feilding's lodgings again: he was not within, but came running into the room in a little time after, with a great deal of joy, and took Mrs. Wadsworth into his arms, and said, "Nothing could ease his mind, but a promise to make him happy, in marrying him presently."—He said he would fetch the priest? but Mrs. Wadsworth refused his proposal, and would have dissuaded him from going then; and desired him to put it off till another time, and would have gone away. But he would not hear of it; and said, she had disappointed him before; and that he repented he had let her go away before; but now he was resolved to make her his own before she went away. Mr. Feilding then went for the priest, and locked the chamber-door after him, and took the key with him, for fear Mrs. Wadsworth should go away; and ordered Boucher to let no body into the dining-room till his return. Mr. Feilding returned in a little time, and brought a priest with him, in a long red gown lined with blue, and long beard, and a fur cap. Mr. Feilding told her that this was the holy father that was to make them one. Mr. Feilding then ordered the man to lay the cloth, and fetch a dish of pickles to supper.—At supper Mrs. Wadsworth seemed cautious; and for fear the priest should not be in orders, said, "How shall I know that this is a priest in orders?" Mr. Feilding questioned him. Then the priest pulled a picture out of his pocket, about the bigness of a crown-piece, and told them "that none but priests had such pictures." And that she might still be further satisfied, she desired another token.

After this, Boucher, and the rest of the servants, were ordered down stairs. Then the priest called for water, salt, and rosemary, to prepare holy water. Boucher brought up water and salt but could get no rosemary. Mr. Feilding and I received it at the dining-room door. Then Mr. Feilding locked the door, and took the key in the inside Mr Feilding asked Mrs. Wadsworth, whether it should be done in the bed-chamber, or dining-room? Mrs. Wadsworth agreed it should be in the bed-chamber. There were none present but Mr. Feilding, Mrs. Wadsworth, the priest, and myself. The priest prepared holy water, and blessed it: then he set Mrs. Wadsworth at the right of Mr. Feilding; the priest stood before them, and read the ceremony in Latin, as I understood; and Mrs. Wadsworth said, "She was not yet satisfied he was a priest." Then he laid down his book, took from under his gown a piece of silk

like a scarf, that was marked with a cross in the middle; and said, none but priests used such a thing. Then Mrs. Wadsworth was well satisfied he was a priest. Says Mr. Feilding to her, "Do you think, my dear, that I would have any body to do this business but the holy father?" Mrs. Wadsworth was well satisfied, till he came to that part, "Wilt thou have this woman to thy wedded wife?" She desired it might be spoke in English by him as well as he could. He did so. He asked Mr. Feilding, "Whether he would have this gentlewoman to be his wedded wife?" He said, "Yes, with all my heart." He asked the lady then, "Whether she would have this gentleman for her husband?" She said, "Yes," faintly: But says Mr. Feilding, you don't speak it so earnestly as I do; you must say, "With all my heart and soul;" which she did. Then the priest blessed the ring and gave it to Mr. Feilding, to put on the lady's finger. He said something in Latin; but what it was I know not. Then we went into the dining-room. Boucher brought up wine; and when all had drank, the priest was discharged.

Counsel. Why was this marriage kept private?

Villars. Because Mr. Feilding took the lady to be Mrs. Deleau.

Justice *Powel.* How long was it before it was discovered?

Villars. It was not discovered till the latter end of May last, or the beginning of June.

Justice *Powel.* When was the time Mr. Feilding was married?

Villars. It was the 9th of November was twelvemonth.

Counsel. What was the reason why the marriage was carried on so privately?

Villars. The reason was, because Mrs. Deleau had a father alive, who had in his hands a part of her fortune; and for fear of disobliging him, Mrs. Wadsworth, that went for Mrs. Deleau, was willing it should be ket private.

Counsel. Can you tell the reason of its being discovered?

Villars. Mrs. Wadsworth sent to Mr. Feilding for money.——Then Mr. Feilding found he had not a woman of that fortune which he took her to be. When Mr. Feilding did find it out, he took Mrs. Streights into a closet, at the Duchess of Cleveland's, and sent for me there: Then Mr. Feilding wanted to have the presents returned. Mr. Feilding then beat me, and asked me whether that was a fit wife for him? And then took a thing made of steel at one end, and a hammer at the other end; and told me, if I would not unsay what I said of his marriage with Wadsworth, he would slit my nose off: And that he would get

two blacks, the one should hold me upon his back, and the other should break my bones.

Justice *Powel.* One would have thought you should have been afraid to have seen Mr. Feilding.

Villars. My lord, it was not till then found out.

Sir *Ja. Mountague.* My lord, I think she hath clearly proved the marriage; and that she saw them three times together, in the space of six weeks after the marriage.

Feilding. By what name did Mrs. Wadsworth go?

Villars. By no name at all.

Feilding. Did I ever appear with her in public?

Villars. No, never.

Feilding. What was the first place I saw her in?

Villars. The first place you saw her, was at your lodgings, last lord mayor's day was twelvemonth.

Feilding. My lord, I desire it may be asked her, how she came to think that I should send such mean presents as she hath mentioned, to a lady of Mrs Deleau's fortune? They were not at all suitable to Mrs. Deleau.

Just. *Powel.* Ay, Mrs. Villars, what say you to that? Mr. Feilding thinks it a very strange thing, that he should send such trifles to a lady of Mrs. Deleau's quality.

Villars. He did think, at that time, that he made his addresses to Mrs. Deleau; and I am sure such presents were sent; and he was really married to her, and married her for Mrs. Deleau.

Just. *Powel.* Mrs. Villars, Mr. Feilding desires this question should be asked you; when was the first time you acquainted the Duchess of Cleveland with this matter?

Villars. I will tell your lordship. Mrs. Feilding, that is now, told me, Mr. Feilding beat her at the lodge at Whitehall (I did not see the beating) and said, she should have occasion to bring me upon my oath, to prove that Mr. Feilding was married to her the 9th of November. I went with Mrs Feilding to the Duke of Grafton, and told him, I was sure he was married the 9th of November before.

Just. *Powel.* How long was it after the beating, before you and Mrs. Feilding went to the Duke of Grafton?

Villars. It was about three weeks.

Just. *Powel.* Are you sure it was before that time that there was any parting betwixt Mr. Feilding and the Duchess of Cleveland.

Villars. Mrs. Feilding acquainted me with it herself, that the beating was before the difference between the Duchess of Cleveland and Mr. Feilding.

Counsel. Although you did not see what passed at Whitehall; whether was this before the difference between the Duchess and Mr. Feilding?

Villars. I believe it was about a fortnight or three weeks.

Feilding. How came it to pass that it was not discovered till now of late?

Villars. It was not discovered till she sent to Mr. Feilding for money, about May, after the marriage.

Just. *Powel.* Why did you not apply yourself to Mr. Feilding for the reward?

Villars. I was to have no reward.

Feilding. Mrs. Villars, what reward did the Duchess of Cleveland promise you?

Villars. I never saw the Duchess of Cleveland; and I was never promised any reward.

Just. *Powel.* Was you not to have had a reward for helping Mr. Feilding to Mrs. Deleau?

Villars. Mrs. Streights left such word at my lodgings; but I had no promise of it from Mr. Feilding.

It became unnecessary to prove the second marriage on the part of the prosecution, in consequence of the following admission.

Sir *Ja. Mountague.* My lord, Mrs. Villars has given you so full an account of every thing I have opened, that all that we have to do now, is to support Mrs. Villars' evidence; and to make it appear to your lordship, that she is right in all these particulars that she tells you of. And the better to make ourselves understood, we will go on, and give your lordship an account how these things were carried on from time to time. But first we shall prove to your lordship, how that after Mr. Feilding was thus married to Mrs. Wadsworth he did actually marry the Duchess of Cleveland.

Feilding. My lord, I do not deny my marriage to the Duchess of Cleveland.

Sir *Ja. Mountague.* Then, my lord, we will not trouble you with any proof of that matter, but go on with making out the circumstances of his marriage with Mrs. Wadsworth; and we shall verify in every particular, Mrs. Villars' evidence.

The testimony of Mrs. Villars was in the main supported. From the evidence in corroboration we take the following passages, the only portions which give a further insight into the story.

Sir *Ja. Mountague.* The next thing we shall prove, is, that Mr. Feilding was actually at Waddon, Mrs. Deleau's house: And we shall prove that even by Mrs. Deleau. (Who was sworn.)

Counsel. Pray, Madam, have you any acquaintance with Mr. Feilding?

Deleau. None at all.

Counsel. Do you remember he came to your house in the country?

Deleau. He did about Bartholomew-tide was twelve-month.

Counsel. When he was there, had he a sight of you, Madam?

Deleau. No, my lord; he was not in the house, but in the garden.

Counsel. Do you know Mrs. Villars?

Deleau. I do, my lord.

Counsel. Did she ever come to you upon such a message, That my lady Duchess of Cleveland and Mr. Feilding had a desire to see the gardens?

Deleau. She did so; and it was about the same time Mr. Feilding had been there, or some little time after, I believe.

Counsel. Did you go to the race on Banstead Downs?

Deleau. No, my lord.

Counsel. Did Mrs. Villars use to cut your hair?

Deleau. No, my lord—her mistress did.

Counsel. Was there any letters brought to your house from Mr. Feilding?

Deleau. I heard there was.

Counsel. Who received the letter from Mr. Feilding?

Deleau. Some of the servants, but I received none; but some of the servants received it. I was then at my father's, and left orders that they should take in no letters but such as came from my relations, which would come by themselves.

Counsel. When had you notice of Mr. Feilding's being at your house?

Deleau. My own butler came up, and acquainted me Mr. Feilding was below. He came to my house with the character of Major-General Villars. I did not see him; but here is the lady that saw him out of the window; who, it seems, he took for myself.

(That lady sworn.)

Counsel. My lord, we only bring this lady to prove what the first

witness said, That Mr. Feilding saw Mrs. Deleau through a window. ——Madam, Do you remember Mr. Feilding was at Waddon, and when?

Lady. He was there about Bartholomew-tide was twelve-month. I did see him through a window, and informed my cousin of it.

Counsel. Then call Mr. Boucher. (Who was sworn.)

Counsel. Mr. Boucher, pray, give my lord and the jury an account of all you know of this matter.

Boucher. My lord, I went with Mr. Feilding to my lord-mayor's show last lord-mayor's day was twelve-month. He went in his chariot to Mr. Feilding's, a linen-draper, at the Three Legs in Cheapside. I looked into the balcony, and saw Mrs. Villars there.—My master came down again, and went to Sir Basil Firebrass's; from thence I was ordered to go home, and meet my master in Bond-street; which I did. He asked me whether any body had been at his lodgings to enquire for him? I said, no, and went home again. Then I found the lady and Mrs. Villars at Mr. Feilding's lodgings. They had been there but a little time, but Mr. Feilding came in. Mr. Feilding complimented the lady, and asked her if she loved singing? Mrs. Margaretta was sent for, and accommodated this lady and Mrs. Villars with two songs. Mr. Feilding treated them with a bottle of wine and a plum cake.—Margaretta went away, and soon after Mrs. Villars and this lady went away. So, says Mrs. Heath afterwards to me, Do you know what woman of quality that is in the coach? This Mrs. Heath is the landlady where Mr. Feilding lodged. Mrs. Villars and the lady went away in a coach. She was in a mourning dress, and the coach was a mourning coach.

Counsel. What time was this?

Boucher. It was my lord-mayor's day was twelve-month, on the 29th of October.

Counsel. Well, go on, and tell what you know of the marriage.

Boucher. Not long after this, my master ordered me to be at home, to get clean sheets for the bed, wax candles, and sconces, and fires in both the rooms: He told me some ladies would be there that night; and ordered if he was not at home when they came, to tell them, that he would be there presently. Accordingly they came, and he was not at home; but in a little time he came and went up to them. Some time after that, he came down stairs in great haste, and said, Boucher, go and bespeak a dish of pickles. I did so; and brought over a cloth,

and the rest of the things, and left them in the window. I stayed by the stairs till he came back in a hackney coach, with a priest along with him in a long gown, and long beard, and a fur cap; I knew him to belong to the Emperor's envoy; and I heard Mr. Feilding call him reverend father. Then I was ordered to set the table and glasses, and wine, and things of that kind, upon the side-board. I waited at table all the while. When supper was over, Mr. Feilding ordered me to go down and fetch water, salt, and rosemary, I went and got water and salt, but could get no rosemary. Then I was ordered to go down, and they were locked in about three quarters of an hour: He then called, Boucher, says he, Will you fill some wine?—I did so, and perceived upon the thumb of this lady, upon her left hand, a plain gold ring, which before supper she had not. When this was over, the priest went away.

Counsel. Then call Matthew Paul. (Who was sworn.)

Counsel. Do you give my lord and the jury an account of Mr. Feilding's beating a gentle-woman; and if any marriage was claimed at that time by a gentlewoman.

Paul. Mr. Feilding came to Whitehall-gate in a chariot; he lit out of it. There was a hackney coach brought two women; one of these women got out of the coach, and came up to Mr. Feilding: Mr. Feilding called her 'Vagabond;' the lady called him 'Rogue,' and said, She was his lawful wife; at that Mr. Feilding having a stick, he punched it at her: it happened upon her mouth, and made her teeth bleed. He ordered the sentry to keep her till he was gone, and he would give him a crown. She said, as I told you before, That she was his lawful wife, and for that reason they did not care to meddle with her.

Counsel. Sir, do you know what time this was?

Paul. I cannot justly tell: it was, as near as I can judge, about the latter end of May.

Counsel. Pray, call Mrs. Feilding, and let the witness see if he knows the woman again that he saw Mr. Feilding beat.

Mrs. Feilding called into court.

Counsel. Is this the woman you saw?

Paul. This is the woman, my lord, I really believe.

Mr. Feilding's letters to his wife, the supposed Mrs. Deleau, were also read in court, they were the following:—

"To the Countess of Feilding."

"*Sunday Night.*

"I hope my dearest wife will easily believe that nothing can be wel-

comer to me than the assurance of her health; but as I received hers but this day, I could not have the felicity of seeing her to-morrow, and she have notice of it; therefore, if she thinks fit on Thursday next at four o'clock, I will see her at Puggy's, (*a name for Mrs. Villars,*) and there endeavour to repair this tedious absence. Eternally your own,

"FEILDING."

"To my dearest Wife, the Countess of Feilding.

"*Friday.*

"I had returned my dear wife's favour long before now, but my lady Duchess's sickness on one hand, and more than ordinary business (of which I will give my dear a particular account) on the other hand, has not given me a moment of time to write to my love. Puggy brings you the set of knots you desired, and the pattern of the damask; or if my dearest life wants any thing else, she may with pleasure command it; for I am never so well pleased as when employed by my dearest wife, and must be ever her affectionate husband till death,

"FEILDING."

"*Nov.* 27, 1705.

"The last letter I had from my dearest wife has mortified me much, finding, that notwithstanding all my kindnesses, she taxes me with coldness in my letters, which I call Heaven to witness I never in the least intended; and beg my dearest to give me some warning before she taxes me of unkindness. Puggy tells me that my dear designs to come to town to-morrow, which I hope she will put off till another day, because I am obliged to be at her Grace's to-morrow all the afternoon, and till late at night; but any other day my dear shall find she is always welcome to the arms of him who loves her more than life itself; and I shall never fail of giving her fresh proofs that I am her loving and affectionate husband,

"FEILDING."

Feilding rested his defence on the notoriously bad character of Mrs. Villars, on the fact of her being promised a reward by the Duchess of Cleveland, and also on the previous marriage of Mrs. Wadsworth at the Fleet to another party. He however failed to satisfy the jury, and he was found guilty; but the Court suspended the judgment, till the next sessions, and accepted bail for Mr. Feilding's appearance.

The next sessions, on the 15th of January, Mr. Feilding appeared, and it being demanded, what he could say, why judgment of death should not pass upon him? he prayed the benefit of his clergy, which was allowed; and he produced the Queen's warrant to suspend the burning in the hand; and was admitted to bail.

Her Grace the Duchess of Cleveland having also instituted a cause of nullity of marriage, against Mr. Feilding, by reason of a former marriage with Mary Wadsworth, in the Arches Court of Canterbury, she proceeded to obtain the sentence of the Court, and accordingly, on the 23rd of May, 1707, the Right Worshipful Sir John Cook, Knt., Doctor of Laws, Official Principal of the Court, judicially sitting in the great hall of Doctors' Commons, in the presence of the Duke of Grafton, the Duke of Northumberland, the Earls of Litchfield, Sussex, and Jersey, and the Lord Quarrendon, and also of the respective proctors of her Grace the Duchess of Cleveland, and of Mr. Feilding, at the petition of her Grace's proctor, read and promulged his definitive sentence in Latin. Wherein, after process and grounds on which the sentence is founded are recited, he concluded, We do pronounce, decree, and declare, that the said Most Noble Lady, Barbara, Duchess of Cleveland, was, and is, free from any bond of marriage with the said Robert Feilding, and had and hath the liberty and freedom of marrying with any other person.

Mr. Feilding, by his proctor, then renounced all benefit of appeal from this sentence; and the gold ring, and seven letters, that had been exhibited on the part of the Lady Duchess, were re-delivered to her, the letters being first registered in Court.

THE TWO TRIALS OF LORD MOHUN, WITH AN ACCOUNT OF HIS SUBSEQUENT FATE.

CHARLES LORD MOHUN, whose turbulent conduct made some noise just prior to, and at the beginning of, the last century, was one of those boisterous spirits who continually astound the town with some act of drunken outrage, or reckless violence. Both paternally and maternally, his Lordship derived from a long line of distinguished ancestors, his father Charles, Lord Mohun, being the representative of the Mohuns of Boconnoc, in Cornwall, a derivative branch of the Baronial House of Mohun, of Dunster; and his mother, the Lady Philippa Annesley, being daughter of Arthur, Earl of Anglesey, an eminent statesman and able political writer. In the great civil war, the Mohuns ranged themselves under the royal banner, and their chief, Sir John Mohun, did essential service to the king's cause in the west of England, where he gallantly fought as a cavalier commander. Both the trials which Lord Mohun underwent, were for the deaths of persons slain in affrays, the result of intoxication and debauch. These investigations are mainly interesting as giving a true and singular insight into the state of the streets and taverns of London at the period, and a view of the outrageous lives and conduct of the roués and gallants who frequented them.

The first trial of Lord Mohun took place in Westminster Hall, before his peers, on the 31st Jan., 1692. This investigation has peculiar interest owing to the chief object of it being the beautiful Mrs. Bracegirdle, the friend of Congreve; she, as well as the Mr. Mountford slain, were eminent members of the theatrical profession.

The Lord High Steward for the occasion was the Marquis of Carmarthen. The charge against the prisoner was, that one Richard Hill, who had fled from justice, did, with a swordor rapier, give one William Mountford a wound, of which he died, and that, at the time of the giving of the wound, Lord Mohun was present, and was aiding and abetting Hill, and consequently that he, as well as Hill, was guilty of the murder of Mountford. The prisoner pleaded not guilty. The narrative of the sad transaction is clearly related in the address for the crown, by Sir John Somers, the Attorney General, which was as follows:

Att. Gen. My lords, the indictment has been opened, and by that your lordships see, the noble lord at the bar stands charged with the high crime of murder.

My lords, his peerage gives him a right to be tried in this great and noble court: and as my lord has just reason to put a high value upon this privilege, so on the other hand, their majesties, who are making inquisition for the blood of one of their subjects, have a full assurance, that no compassion for my lord's youth, no consideration for his quality, or regard for one of your own order, will make your lordships unmindful of the heinous nature of the crime, or cause any variation in the steadiness of your justice.

It is true, my lords, the difference between the trial of a peer and a commoner is very great, but there is no difference in the crime, whether committed by one or the other: it is the same law by which they must be tried and judged; and that fact which would be murder in the meanest subject, is no less than murder, if committed by the greatest peer.

My lords, it is not insisted upon, that the noble lord at the bar gave the mortal stroke with his own hand; nor is it so alleged in the indictment: the indictment findeth the wound to have been given by the hand of Richard Hill; but if my lord the prisoner was of his party, if he concurred with him in the thing, if he was present and abetting to the fact, though he did not strike a stroke, though he was no more than a looker-on when the thing was done; the law saith, he is a principal in the murder.

Whether my lord's case will fall within this rule, is the point for your lordships to determine when the witnesses are heard.

My lords, it is my part to give an account of the nature of the evidence, to the end that your lordships may more easily go along with the witnesses, as they are examined, and more readily make your observations upon what they say.

This I shall do as shortly and as exactly as I can, without pretending to aggravate anything, which I could never think did become any one in my station; and I am sure, would be to very little purpose before such a judicature as this; for after all, your lordships will found your judgments upon the fact, not as it is represented by us, but as it appears upon the oaths of the witnesses.

The time when the fact for which my lord is to be tried was committed, was the 9th day of December last.

The occasion of it was this:

Captain Hill, the person mentioned in the indictment, had for some time before made addresses of courtship in the way of marriage, to one Mrs. Bracegirdle an actress in the play-house; but these proposals were totally rejected. This put Mr. Hill in a very great rage, and he declared that, Mr. Mountford (the person slain), was the only man that stood in his way, and with many execrations expressed his resolution to be revenged upon him: this he did at several times, and before several persons.

The same day the fact was committed, in the morning, my lord, who is now at the bar, and Captain Hill, went together to hire a coach to go to Totteridge, and directed the coachman to have six horses ready, but to be waiting for them in Drury-lane, near the playhouse, with only two horses in his coach, about nine o'clock the same night. My lord and Captain Hill dined together that day, at a tavern in Covent-garden, and here much of their discourse was about Mrs. Bracegirdle; and both of them did freely declare their opinion, that Mr. Mountford was favoured by her. But the principal of their discourse was in relation to a design which they had formed for the seizing upon Mrs. Bracegirdle, and forcing her into a coach, and carrying her away somewhere into the country.

This was to be executed that night; and accordingly they were then providing arms for that purpose: Mr. Hill did acquaint my lord, that the soldiers would be ready by the time; and my lord took notice, that the carrying her off would stand Mr. Hill in £50 at least. Thereupon (as your lordships will hear from the evidence), Mr. Hill used this expression: If the villain resist, I will stab him; and then my lord was pleased to say, that he would stand by his friend.

After they had continued there some time, being about to part, Mr. Hill told my lord, that unless he was at the play-house by six o'clock, the thing could not be effected, and he should be undone: but my lord promised to be there at the time.

Accordingly they both met at the play-house; and after they had been behind the scenes, and informed themselves that Mrs. Bracegirdle would not be there that night, they left the play-house.

But it seems they had got intelligence, that she was to sup that night at one Mr. Page's house in Drury-lane; and therefore they, the prisoner at the bar, and Mr. Hill, planted themselves with their soldiers, near that place, over-against my Lord Craven's house.

After they had continued there for a considerable time (I think till towards nine o'clock), they began to have a jealousy, that they might

be under some misinformation; and therefore ordered the coachman to drive them into Howard-street, the place where Mrs. Bracegirdle lodged; and observing some persons walking near her lodging, they said, they doubted they were deceived, and had been betrayed.

But they soon came back again to Drury-lane, and fixed themselves in their former station. About ten o'clock, Mrs. Bracegirdle, accompanied with Mr. Page (at whose house she had been) and with her mother and (I think) her brother, going home; when they came to the place where the coach stood, with the door open, and my lord at the bar placed in the coach, and several cases of pistols by him, the soldiers, together with Captain Hill, came up to Mrs. Bracegirdle, seized upon her, and would have forced her into the coach: Mr. Hill endeavoured with violence to force away Mr. Page, who was then leading her, and struck him; but Mrs. Bracegirdle's mother holding her about the middle, they could not readily get her into the coach; and during this struggle there was an opportunity given to Mr. Page to call for help; and several persons coming presently from the houses near, and the people in the street beginning to rise upon them, they found it impracticable to effect their design at that time.

Thereupon the soldiers were dismissed, but my lord and Mr. Hill would not be denied the liberty to wait upon Mrs. Bracegirdle to her lodging; and accordingly, together with Mr. Page and her mother, and other persons, they went together to Mrs. Bracegirdle's lodging, at one Mrs. Browne's house, in Howard-street. Mr. Mountford's house was in Norfolk-street, below Howard-street. Howard-street is a cross-street, which leads from Arundel-street, and through Norfolk-street to Surrey-street; and so it was not possible for Mountford to come to his own house, but whoever should fix themselves in Howard-street, must have the opportunity of seeing him.

As they were going along, Hill swore he would be revenged; but named nobody.

After that, Mrs. Bracegirdle and the company were come to her lodging, she and her mother and Page went into the house: my Lord Mohun and Mr. Hill staid in Howard-street, and there continued for near two hours together, and for the most part of that time, with their swords drawn.

Mr. Mountford, as it happened, did not come home till late that night; so that their stay being long, my lord and Mr. Hill thought fit to send

for wine, and had one or two bottles, which they drank in the street, near Mrs. Bracegirdle's lodgings.

During this time, they were heard to say (that is, one of them was; but which of them, by reason of the darkness, we cannot tell), that if he could not be revenged that night, he would the next morning; upon which a boy, who was there with them, (but who the boy was we cannot discover) said, Good my lord, do not do it, alter your resolution. I did observe before, that Mrs. Bracegirdle supped that night at Mr. Page's house, and Mrs. Page having heard of the great outrage and tumult in the street, and that her husband was gone home with Mrs. Bracegirdle, and being under a great concern for his safety, thought fit to follow him thither. As she entered into the house, she saw my Lord Mohun and Captain Hill near the door; and presently after, before she could have a full relation of what had happened in Drury-lane, Mrs. Browne, the owner of the house where Mrs. Bracegirdle lodged, came into the room and told them, that my Lord Mohun and Hill were waiting for Mr. Mountford, and that she was apprehensive it was with no good intention. Thereupon Mrs. Page thought it requisite to go to Mrs. Mountford's house to give her notice of it, and to desire her to find out where her husband was, and to caution him not to come home, unless he brought a good guard with him.

As she went out, she saw them both with their swords drawn, and she acquainted Mrs. Mountford with it, who sent to several places in search of her husband; but she was so unfortunate, that the messengers could not find him.

Whilst this was doing, the watch came into Howard-street, being alarmed at the report that two gentlemen were drinking in the street, and walking there with their naked swords. The watch demanded of my Lord Mohun, why he had his sword drawn. My lord was pleased to return them this answer, That he was a peer of the realm, and bid them touch him if they durst. They then asked Hill, why his sword was out, and my lord made the excuse for him, that Hill had lost his scabbard.

The watch observing the drawer who attended upon them, and knowing that he lived at a tavern in Surrey-street, went to inform themselves who these persons should be, that they were walking in such a manner at that time of night. But they were hardly got into the house before they heard the cry of murder.

The witnesses will inform your lordships, that as Mr. Mountford,

about twelve o'clock, was coming home, my Lord Mohun met him and saluted him. Mr. Mountford said, my Lord Mohun, what does your lordship do here at this time of night? and my lord made answer, he supposed Mr. Mountford had been sent for. No, no, says Mountford, I came by chance. My lord said to him again, I suppose you have heard about the lady. Mr. Mountford answered, I hope my wife has given your lordship no offence. No, says my Lord Mohun, it is Mrs. Bracegirdle I mean. To this the reply of Mr. Mountford was, Mrs. Bracegirdle is no concern of mine; but I hope your lordship does not countenance any ill action of Mr. Hill.

Upon this Hill came up to them, and said to my lord, it was not a time to discourse of those matters; and as my lord continued to talk with Mountford, Hill struck Mountford first, and in a manner at the same instant made a pass at him, and run him clean through the body, and this before Mr. Mountford's sword was drawn. Immediately, upon this, there was a cry of murder, and the watch came with what haste they could, and took my Lord Mohun, but Hill was fled; when my lord was taken his sword was not drawn.

As soon as my Lord Mohun was taken, the first question he asked was, if Hill was apprehended? And when he was told he was not, he said he was glad of it, and he did not care if he were hanged for him. And he said, adding at the same time, that he was sorry Mr. Hill had so little money about him, and wished him all that he had in his own pocket; and he did then also own to the watch, that he had changed coats with Mr. Hill, and had Hill's coat on him at that time.

My lords, this is the substance of the evidence, and in this order, with your lordships leave, we shall offer the proofs to your lordships; I do not doubt, but your lordships will attend to the evidence with all care, and will determine upon it according to justice and honour.

The evidence adduced, went scarcely further than to prove that Lord Mohun was present at the death of Mountford: it was not shown that his lordship came to the place with any design against the person of the deceased, or that he actually assisted Hill in slaying him. The following are the only interesting portions of this testimony.

Att. Gen. Mr. Powell: Pray will you give my lords an account of what you know of this matter.

Powell. May it please your lordships, about five or six days before Mr. Mountford was wounded, I was in company with Captain Hill, and he

began Mrs. Bracegirdle's health. I told him I would pledge it. Says he, I am sure there is no bar between me and Mrs. Bracegirdle but Mountford; and I am resolved to be revenged on him, one way or another. About three days afterwards I was at supper with my Lord Mohun and Captain Hill, and another gentleman, and the same discourse arose again, and Captain Hill whispered me in the ear, says he, I am resolved to have the blood of Mountford. I told him I did not think it fit for him to speak so behind a gentleman's back, and to me who was his friend. I said, I would acquaint Mr. Mountford what he said, and I did not doubt but he would give him the satisfaction of a gentleman for any injury he did him. I heard no further discourse at that time, nor do I know more of that matter, till the night Mr. Mountford was wounded, when I saw him lying upon the parlour-floor, and afterwards saw him laid to bed, and sat up all night with him, and about four o'clock in the morning, I asked Mr. Mountford how the thing happened. He told me Captain Hill killed him basely; I asked him if his sword was drawn; Yes, says he, but it was after I had received my wound, for whilst my Lord Mohun talked to me, Hill run me through.

Att. Gen. At that time, when those words were spoke at supper, that he designed to be the death of Mountford, was my lord present?

Powell. Yes, my Lord Mohun was present, but he was talking to Col. Tredenham.

Att. Gen. Did my Lord Mohun say anything to what Hill said?

Powell. I did not hear him make any answer to it at all.

Att. Gen. My lords, the next witness we shall call, will give you an account what was done in Drury-lane, upon their endeavouring to carry her away, and for that we have here Mrs. Bracegirdle herself.

L. H. Stew. What is this gentlewoman's name?

Att. Gen. Mrs. Ann Bracegirdle. (Then she was sworn.)

Att. Gen. Mrs. Bracegirdle, pray give my lords an account of the whole of your knowledge of the attempt that was made upon you in Drury-lane, and what followed upon it.

Mrs. Bracegirdle. My lord, I was in Prince's-street, at supper at Mr. Page's, and at ten o'clock at night, Mr. Page went home with me; and coming down Drury-lane, there stood a coach by my Lord Craven's door, and the boot of the coach was down, and a great many men stood by it; and just as I came to the place where the coach stood, two soldiers came and pulled me from Mr. Page, and four or five more came up to them, and they knocked my mother down almost, for my mother and

my brother were with me. My mother recovered, and came and hung about my neck, so that they could not get me into the coach, and Mr. Page went to call company to rescue me. Then Mr. Hill came with his sword drawn, and struck at Mr. Page and my mother; and when they could not get me into the coach because company came in, he said he would see me home, and he led me by one hand, and my mother by the other. And when we came home, he pulled Mr. Page by the sleeve, and said, Sir, I would speak with you.

Att. Gen. Pray, Mrs. Bracegirdle, did you see any body in the coach when they pulled you to it?

Mrs. Bracegirdle. Yes, my Lord Mohun was in the coach; when they pulled me to the coach, I saw my Lord Mohun in the coach. And when we came home, Hill pulled Mr. Page by the sleeve, and he said, he would speak with him. As they led me along Drury-lane, my Lord Mohun came out of the coach and followed us, and all the soldiers followed them; but they were dismissed, and, as I said, when we came to our lodging, then Hill pulled Mr. Page by the sleeve, and said he would speak with him. Saith Mr. Page, Mr. Hill, another time will do, to-morrow will serve; with that, when I was within doors, Mr. Page was pulled into the house, and Mr. Hill walked up and down in the street with his sword drawn. He had his sword drawn when he came along with me.

Att. Gen. Did you observe him to say anything whilst he was with you?

Mrs. Bracegirdle. As I was going down the hill, he said, as he led me, he would be revenged.

Att. Gen. Did he say of whom he would be revenged?

Mrs. Bracegirdle. He did not name of whom then, but when I was in the house, several persons went to the door, and afterwards Mrs. Browne went to the door, and spoke to them, and asked them what they staid and walked there for? at last they said, they staid to be revenged of Mr. Mountford; and then Mrs. Browne came into me, and told me of it.

L. H. Stew. Who said that?

Mrs. Bracegirdle. Mr. Hill.

Att. Gen. Were my Lord Mohun and Mr. Hill both together when that was said, that they staid to be revenged of Mr. Mountford?

Mrs. Bracegirdle. Yes, they were. And when Mrs. Browne came in and told me, I sent my brother and the maid, and all the people we could out of the house, to Mrs. Mountford, to desire her to send, if she

knew where her husband was, to tell him of it, and she did. And when they came in a doors again, I went to the door, and the doors were shut, and I listened to hear if they were there still; and my Lord Mohun and Mr. Hill were walking up and down the street; and by and by, the watch came up to them, and when the watch came, they said, Gentlemen, why do you walk with your swords drawn? Says my Lord Mohun, I am a peer of England, touch me if you dare.

L. H. Stew. Repeat that again, for I could not well hear you: do you speak of what you heard from Mrs. Browne, or what you observed yourself?

Mrs. Bracegirdle. My lord, I was within doors, but I was listening at the door and heard this myself; they came up to them and said, Gentlemen, why do you walk with your swords drawn?

L. H. Stew. Who asked that question?

Mrs. Bracegirdle. The watch; and says my Lord Mohun, I am a peer of England, touch me if you dare. Then the watch left them, and they went away, and a little after there was a cry of murder, and that is all that I know my lord.

L. Mohun. My lord, I desire this witness might be asked, how long after this passage that she speaketh of, was it that she heard murder cried in the street.

L. H. Stew. You hear the question Mrs. Bracegirdle; what say you to it?

Mrs. Bracegirdle. My lord, I believe it was about a quarter of an hour after, to the best of my memory.

L. H. Stew. What do you mean, a quarter of an hour after the watch asked the question?

Mrs. Bracegirdle. Yes, my lord.

[Then the Earl of Mulgrave stood up.]

L. H. Stew. My Lord Mulgrave.

E. of Mulgrave. My lord, I desire to ask this witness a question. If I heard her aright, I think she said, they threatened to be revenged of Mr. Mountford, I desire to know of her, whether my Lord Mohun did threaten him?

Mrs. Bracegirdle. I do not know indeed; but when Mrs. Browne asked them what they staid there for? they said, to be revenged of Mr. Mountford. I did not hear them myself, but Mrs. Browne came in and told me so.

Att. Gen. Mrs. Bracegirdle, I think if I did not mistake, you said,

when the watch came up, they asked them why their swords were drawn?

Mrs. Bracegirdle. Yes, and my Lord Mohun made answer, he was a peer of England, and bid them touch him if they durst, and they went away.

Mr. Page was then examined.

Att. Gen. Pray, Mr. Page, did you see Mr. Mountford after he was wounded?

Mr. Page. Yes, I did.

Att. Gen. Then give my lords an account of what passed at that visit.

Mr. Page. Upon the outcry of murder, I came into the street, where I found my Lord Mohun just surrendering himself to the constable; and immediately I went to Mr. Mountford's house, and I found him lying all along in his blood upon the floor; he seeing me, desired me to lift him up, which I did, and thinking he had been dying, I asked him whether he knew me. He said, yes. Said I to him, had you time to draw your sword in your defence? He said, 'He was barbarously run through before he could draw it.'

Att. Gen. Is this all you have to say, Sir?

Mr. Page. Yes.

L. H. Stew. Will your lordship ask this witness any questions?

L. Mohun. My lord, I desire he may be asked, whether my sword was drawn when I surrendered myself to the constable.

Mr. Page. No, my lord, your sword was in the scabbard when you surrendered yourself, but I cannot say whether your sword was drawn before or not.

Mr. Bancroft, a surgeon, testified as follows:

Bancroft. My lord, upon the 9th of December last, at night, between the hours of twelve and one, I was knocked up to go to Mr. Mountford, whose servant came for me and told me, he was dying of a wound he had received. So I came to his house, and found him very desperately wounded; it went in and out by his back bone, behind his left side. I told him what he must expect, that he was a dead man. I attended him that night till about four o'clock in the morning, and then I took my leave of him and went home: about eight o'clock in the morning I came thither again, and met Mr. Hobbs there, and he was of the same opinion. He lived till about one, and then he died.

Att. Gen. What discourse had you with Mr. Mountford?

Bancroft. About ten o'clock, I was sent for by the constable to come to Hick's-hall, to be examined there before the justices; and

being then with Mr. Mountford, and some company being there, Mr. Powell (as I take it) was one; I said to Mr. Mountford, I suppose where I am going, I shall be asked some questions about what you may have said to me; you are now upon the brink of eternity, and pray answer me truly, who gave you this wound; was it Mr. Hill, or my Lord Mohun? Said he, my Lord Mohun offered me no violence, but while I was talking with my Lord Mohun, Hill struck me with his left hand, and with his right hand run me through before I could put my hand to my sword.

Att. Gen. Did he tell you his sword was drawn?

Bancroft. He did not say it was or not, but that Hill struck him with his left hand, and at the same time, run him through with his right, before he could put his hand to his sword.

Att. Gen. Did he tell you my Lord Mohun's sword was drawn?

Bancroft. The words were these, as near as I remember; my Lord Mohun offered me no violence, but whilst I was talking with him, Hill with his left hand struck me, and with his right run me through, before I had time to put my hand to my sword.

Att. Gen. Did he tell you he had his sword drawn at all afterwards?

Bancroft. No, not a word of that, that I heard.

After a short defence from Lord Mohun, the evidence for the crown was summed up by the Solicitor General, Sir Thomas Trevor. Various questions of law were then put by different peers to the judges, who were present. These queries being answered, the opinions of the peers were taken, when fourteen declared Lord Mohun to be guilty, and sixty-nine declared him not guilty. His lordship was thereupon discharged.

Lord Mohun was again tried by his peers on the 29th March, 1699, for the murder of Richard Coote, who also lost his life in a street brawl. Another peer, Edward Rich, Earl of Warwick, was included in this charge, and was convicted of manslaughter, but claimed, and obtained the benefit of his clergy. He, and Lord Mohun, were tried separately Lord Mohun's trial coming on after the other.

The Lord High Steward for the occasion was Lord Somers. The whole affair is fully related in the opening address of the Attorney-General Sir Thomas Trevor, and the summing up of the evidence for the crown by the Solicitor-General, Sir John Hawles.

Attorney General. My lords, this noble lord, my Lord Mohun, the prisoner at the bar, stands indicted for the death of Mr. Coote, one of the king's subjects, as your lordships have heard in the case that was before

you yesterday; to which indictment he hath pleaded not guilty, and for his trial has put himself upon my lords, who are his peers; I shall very shortly open the substance of the evidence that we shall offer for the king against my lord, the prisoner at the bar; we shall produce evidence to prove, that at the time laid in the indictment, the 29th of October at night, and the next morning, which was Sunday, my lord the prisoner at the bar, and my Lord of Warwick, (who has been found guilty of manslaughter upon this indictment before your lordships) and those other persons that are named in the indictment, Captain French, Captain James, and Mr. Dockwra, and the gentleman that was killed, happened to be at the Greyhound tavern in the Strand, which was then kept by Mr. Locket, and continued there a great part of the night, indeed till the next morning, about one or two of the clock in the morning; there was my Lord of Warwick, my Lord Mohun, Captain French, Captain Coote, and Mr. Dockwra; but very late in the night the other gentleman, Mr. James, was sent for: A messenger was sent particularly to have him come to them; there they continued drinking till about one or two of the clock in the morning, then coaches were sent for; then the drawer of the house will acquaint your lordships, that he went for them, and could not get any at that time, being a very dark night; and when there could be no coaches had, then there were chairs called for, and the drawer went to call chairs; and as we shall make it appear to your lordships, when the drawer came back, there did appear to be a quarrel among them, for there was clashing of swords, and they seemed to be divided into two parties; on the one side were my Lord of Warwick, my Lord Mohun the prisoner at the bar, and Mr. Coote; on the other side were Captain French, Captain James, and Mr. Dockwra; and first there were two chairs came to the door, into which Mr. French and Mr. Coote went, and when they were in the chairs my Lord Mohun came out, and said he would kill any of the chairmen that went away; and so they put up again, and the gentlemen came out, and came into the house; but afterwards Mr. Coote went into the first chair, and my Lord of Warwick into the next, and my Lord Mohun into the third, and then they went away; and the other three gentlemen went into the other three chairs, and followed them. Your lordships will hear whither they were all carried. When they came to the end of St. Martin's-lane in the Strand, my Lord Mohun would indeed have endeavoured to have persuaded Mr. Coote in particular to have gone home for that night, and let the business alone till another time; but

Mr. Coote would go on; and while the three chairs carried my Lord of Warwick, my Lord Mohun, and Mr. Coote to St. Martin's-lane end, which were the three first chairs that went away from Locket's, the other three chairs that went after them overtook them, and then by Mr. Coote's command, the chairmen that carried him went forward towards Leicester-fields; and then this noble lord, my Lord Mohun, did say, if you go on, I will go and see the end of it, and ordered the chairman that carried him to go after those chairs in which my Lord of Warwick and Mr. Coote went; and accordingly they did go till they came to the hither end of the square in Leicester-fields, near Green-street end, where my Lord Mohun got out of his chair, and paid for all the three chairs three shillings. But we shall not be able to give to your lordships an account particularly as to my Lord Mohun, what he did afterwards, but we shall call our witnesses to prove what we have opened; and when our witnesses are heard, we shall leave the matter to your lordships' judgment.

At the conclusion of the evidence for the crown, certainly not very strong against Lord Mohun, the Solicitor General spoke as follows:

Sol. Gen. My lords, I am of counsel for the king against this noble lord, my Lord Mohun, the prisoner at the bar, who has been upon his trial this day, and it comes to my turn to sum up the evidence that has been given against him, which is but a repetition of what your lordships, no doubt of it, have taken exact notice of; but I must shortly sum up the chief of the particulars thereof, and make a few remarks what of that evidence sticks particularly upon my Lord Mohun. The first witness was the drawer of the house, at the Greyhound in the Strand, who gives you an account, who were at his master's house the 29th of October last, and particularly, that my Lord Mohun was there in the same company wherein this gentleman was that was unfortunately killed, and that he continued in that company till very late that night, or rather, very early the next morning; when, after the reckoning was paid, they came all down to the bar and called for coaches; and he tells you, that he was sent out, and he tells you what he was sent for, he was sent for coaches, and so cannot give any account what passed while he was gone; but when upon calling for coaches, none could be had, there was order for chairs to be called, and chairs were brought to the door; and when he came in again he heard the clashing of swords, and there were three on the one side of the bar, and three of them on the other: indeed he does say, he did not see when the swords were drawn; but

at that time they were putting up their swords, my Lord Mohun was in the company, upon which I would observe to your lordships that there had been some fighting; for the witness says, upon my lord's question, that my lord called for a napkin to put his hand in, for his finger was cut; and he said, this is all that I have got by endeavouring to part them; so that it shews there was a quarrel, and my Lord Mohun was in it. When the chairs were brought to the door, they went into them; there went Mr. Coote into one, into the second my Lord of Warwick, and into the third my Lord Mohun; so that still my Lord Mohun was in the company, and they went away together; and though it is pretended by my lord, that he did all he could to prevent the quarrel, yet he gave directions to the chairmen that carried him to follow the other chairs, and your lordships perceive what the business was that they went about; and the other three chairs followed after presently, so that they all went away together; nay, my lord himself does not disown his being in the company till they came into Leicester-fields. Next I would observe what fell from Browne, who carried the very gentleman that was killed, Mr. Coote, that my Lord Mohun was in one of the three first chairs, and that they all went together, till that my Lord Mohun called out to stop, upon the turning up into St. Martin's-lane; and though they stopped in St. Martin's-lane, and my Lord Mohun did intreat them to let it alone at that time, yet it was only to let it alone till the morning; and when the other three chairs passed by on the other side of the way, and Coote would have them go on, my Lord Mohun said, if they would go on, he would go with them and see it. Applegate, the chairman, that carried my Lord Mohun, says the same; and so it is plain my Lord Mohun did go on with an intention to make one in the affray; for Applegate says, that when my Lord Mohun could not prevail upon his persuasions, and when Coote went away, after the other three chairs were passed by, my Lord Mohun said, if you do go, I must go and see it; and they did go all together: and the chairman says, he set my Lord Mohun down at the end of Green-street, at the lower end of the fields, where the other two chairs set down Captain Coote and my Lord of Warwick, and that they all three walked up together towards the Strand tavern; still all this proves my lord did go there, and that he himself did say he would go and see it; and it is plain that my Lord Mohun did go as far as Leicester-fields, and it is only his declaration concerning himself, without any proof, that he went away and did not go into the fields, to the place where the fact was done; and we think

it is sufficient proof that he was one of them that were concerned, because we do prove, that he was all along in the company till the very time that they came into the place where the thing was done. Then there is the chairman that carried Mr. James, and he tells your lordships, that the three first chairs that went up St. Martin's-lane went to the Standard tavern, and there knocked at the door, and paid the chairmen, and went out of their chair; and so say the other chairmen that carried Captain Dockwra and Captain French; and they say also, that when they came down the paved stones again, they heard chairs called for, but they did not interpose at all in the matter; but the other two chairs it seems did, for they went up to the upper end of the square, where there were two persons holding up Mr. Coote, and after they put the chair over the rails, in order to have him carried away in a chair, but they could not get him into the chair. I would likewise observe from the evidence of the surgeon, who gives you an account of what nature the wounds were; one was in the breast, near the collar-bone, on the left-side; the other was under the short ribs, on the left side too, which could not be given him by the person that he was fighting with, he being a right-hand man, as was proved by his servant. My Lord Mohun has called but one witness, which is only about a little circumstance of his being wounded in the hand, and having the wound laid open, but that was two days after the fact was done; my Lord Mohun could not but know that the matters he was to answer, related to a time before. It must be agreed to me, that they all three, my Lord of Warwick, my Lord Mohun and Mr. Coote, went all away together, that they were carried to Leicester-fields, that they were set down together, and walked up together upon the stone pavement, when the others were gone towards the upper end of the fields; so that in all probability, they all went together into the place where the fight was, and were all concerned; and if so my Lord Mohun must be equally guilty with the rest, my Lord Mohun knowing what business it was that they were going about. It must be left to your lordships, whether he shall not be presumed to be there when the fact was done, especially his saying when he could not prevail in St. Martin's-lane, to put the matter off till another time, that if they did go on, he would go and see it; so that putting these two circumstances together, his going in one of the chairs with my Lord Warwick and Coote, and what he said after when the chairs stopped in St. Martin's-lane, we think are circumstances to induce your lordships to believe, that he was present at the time of the

fact committed, or very near the place; and if that be so, how far he is guilty must be submitted to your lordships' consideration; and this is all that I shall trouble your lordships with without repeating the particular evidence, which your lordships I am sure very well remember.

The peers, however, being convinced that Lord Mohun had endeavoured to prevent the fighting, and was not instrumental in the actual death, his lordship was unanimously acquitted.

The turbulent career of the aristocratic night brawler was at length terminated by a violent death. Lord Mohun was killed in the duel, of fearful celebrity, which took place in Hyde Park, between him and the Duke of Hamilton, who also fell.* The affair is thus narrated by the historian Hume:

The Duke of Hamilton having been appointed ambassador extraordinary to the court of France, the Whigs were alarmed on the supposition that this nobleman favoured the Pretender. Some dispute arising between the Duke and Lord Mohun, on the subject of a law suit, furnished a pretence for a quarrel. Mohun, who had been twice tried for murder, and was counted a mean tool, as well as the Hector of the Whig party, sent a message by General Macartney to the Duke challenging him to single combat. The principals met by appointment in Hyde-park, attended by Macartney and Colonel Hamilton. They fought with such fury, that Mohun was killed upon the spot, and the Duke expired before he could be conveyed to his own house. Macartney disappeared, and escaped to the continent. Colonel Hamilton declared upon oath before the privy council, that when the principals engaged he and Macartney followed their example: that Macartney was immediately disarmed, but the Colonel seeing the Duke fall upon his antagonist, threw away the swords, and ran to lift him up; that while he was employed in raising the Duke, Macartney, having taken up one of the swords, stabbed his grace over Hamilton's shoulder, and retired im-

* His grace was eldest son of Lord William Douglas by his consort Anne, Duchess of Hamilton, and obtained, by creation, the English Dukedom of Brandon. His second wife was Elizabeth, only daughter and heiress of Digby, fifth Lord Gerard, and niece of Mrs. Charlotte Mainwaring whose daughter married Lord Mohun. The quarrel, that arose between the Duke and his antagonist, originated in a dispute about the inheritance of the property of Charles Gerard, second Earl of Macclesfield, which his lordship had devised to the husband of his niece Lady Mohun, in preference to Hamilton, who had married a lady related to him in equal degree. The present chief of the illustrious House of Hamilton, Alexander, tenth Duke, is great grandson of the ill-fated nobleman, to whom we are referring.

mediately. A proclamation was issued, promising a reward of £500 to those who should apprehend or discover Macartney, and the Duchess of Hamilton offered £300 for the same purpose. The Tories exclaimed against this event as a party duel: they treated Macartney as a cowardly assassin: and affirmed that the Whigs had posted others of the same stamp all round Hyde Park to murder the Duke of Hamilton in case he had triumphed over his antagonist, and escaped the treachery of Macartney. The Whigs on the other hand, affirmed, that it was altogether a private quarrel; that Macartney was entirely innocent of the perfidy laid to his charge: that he afterwards submitted to a fair trial, at which Colonel Hamilton prevaricated in giving his evidence, and was contradicted by the testimony of divers persons who saw the combat at a distance.

In Nichols's edition of Swift's Works, the accounts which appeared in the *Post Boy*, are exhibited as follows:

"On Saturday morning last, about seven o'clock, the Duke of Hamilton and the Lord Mohun fought a duel in Hyde-park. His grace's second was Colonel Hamilton; and his lordship's, Major-general Macartney. The Lord Mohun died on the spot; and my lord duke soon after he was brought home, who received the following wounds; one, on the right side of his leg, about seven inches long; another, in his right arm; the third, in the upper part of his left breast, running downwards into his body, which was looked upon to be the immediate occasion of his death; the fourth wound was on the outside of his left leg. My Lord Mohun received a very large wound in his groin; another, on the right side through his body, up to the hilt of his sword; and the third in his arm; and other wounds. *Post Boy*, Nov. 18." In the same publication, Nov. 20, was the following article, evidently written by Dr. Swift: "Major-general Macartney went three times to the duke's house with a challenge from the Lord Mohun. On Friday last at four in the afternoon he delivered it to the duke, and was at the bagnio all night with my Lord Mohun, who was observed to be seized with fear and trembling at that time. They met at seven the next morning, with their seconds, Colonel Hamilton of the Foot-Guards for the duke, and Macartney for the Lord Mohun. There the duke told Macartney, that his grace knew this was all of his contrivance, but that he should have a share in the dance; for his friend Hamilton resolved to entertain him. On Tuesday last a committee of council sat at the Earl of Dartmouth's office, and the spectators of the duel were examined; and we hear, that

my lord duke and the Lord Mohun did not parry, but gave thrusts at each other, and the latter shortening his sword, stabbed the duke in the upper part of his left breast, running downwards into his body, which wound, upon probing, was about fourteen inches long, who expired soon after he was put into the coach. Colonel Hamilton received a wound in his right leg, and going afterwards to the Half-moon tavern in Cheapside, was dressed by Mr. Woodward the chirurgeon. His grace is universally lamented by all men of honour and honesty, or who have the least regard for their Queen and country, being a faithful subject, a true friend, a kind master, and a loving husband; and, as a just reward for his services and sufferings, was preferred to the greatest honours and employments of the crown. His grace is succeeded in honour and estates by his eldest son, who is about twelve years of age. It is to be remembered, that the Lord Mohun was the person who gave the affront, which the duke, observing him to be in drink, disdained to regard. But the faction, weary of him, resolved to employ him in some real service to their cause, and valued not what became of him, provided he did their drudgery: for the dispute at law between the duke and his lordship had continued many years, without any personal quarrel of consequence. But this is the new expedient of the faction, band-boxes and bullies. Macartney is absconded: but it is hoped a proclamation will soon be issued out for apprehending him, in order to bring him to justice.—N. B. This is the fourth person that my Lord Mohun had the misfortune to kill. His lordship's title is extinct."

At this time Swift was become a Tory, and one of the "ministers or agents of the ministry," as they are denominated by Johnson, in number at first sixteen, afterwards more, who met weekly at each others' houses, and were united by the name of brothers.

In the History of the Four Last Years of Queen Anne, Swift says that Macartney stabbed Duke Hamilton in the breast after he was wounded by Lord Mohun, and in a note to that work, it is said, that his account is exactly agreeable to the depositions of Colonel Hamilton, before a committee of the council. Macartney, it appears, escaped to Holland, but afterwards (June 16, 1716,) was tried for the murder at the bar of the Court of King's-bench, and found guilty of manslaughter. Swift, in his Journal to Stella, (December 26, 1712), relates a curious anecdote of a gentleman, who being set upon by highwaymen, told them he was Macartney, "upon which they brought him to a justice of peace in hopes of a reward, and the rogues were sent to gaol."

Burnet, after relating the fate of Hamilton, says, "I will add no character of him. I am sorry I cannot say so much good of him as I could wish; and I had too much kindness for him, to say any evil without necessity."

Of Lord Mohun we may add, that he married twice, first Charlotte Mainwaring, niece of Charles Gerard, Earl of Macclesfield; and secondly Elizabeth, daughter of Dr. Thomas Laurence and widow of Col. Griffith; but had no issue by either. At his decease the Barony of Mohun of Okehampton became extinct, but the estate of Gawsworth in Cheshire, which he had inherited from the Gerards, vested by will, in his widow, and eventually passed to her ladyship's daughter, Anne Griffith, wife of the Rt. Hon. William Stanhope, by whose representative, Charles, Earl of Harrington, it is now enjoyed.

THE TRIAL OF FORD, LORD GREY OF WERKE, AND OTHERS, FOR A MISDEMEANOR.

This investigation, though giving the detail of a very foul transaction, and disclosing guilt of the blackest and deepest die, is one of such memorable record, that it cannot be omitted here. Many of the persons who figure at this trial are of historical importance, and the whole affair presents a curious picture of the manners of the period at which it occurred. In the following narrative of it, however, the more offensive particulars are carefully avoided: fortunately, indeed, the story may be fully related without them.

Lord Grey, of Werke, the principal actor in this disgraceful business, was a personage of infamous memory. Beside this trial, which did him such dishonour, he was notorious for his political tergiversation, and for the cowardice that he displayed at the battle of Sedgemoor, which mainly contributed to the Duke of Monmouth's defeat. After the annihilation of the cause, and hopes of his companions on that occasion, Lord Grey meanly saved his own life by writing a letter and confession to James II. He is thus spoken of in the State Trials:—

"First as to Grey: Throughout the report of the proceedings relating to his wife's sister (the trial here given) he appears to be a most unprincipled miscreant: we find him guilty of the most odious abuse of confidence, the meanest duplicity, the basest falsehood, and the most ungenerous, most ungrateful, and most unfeeling selfishness; a selfishness in gratification of which he scrupled not to blast with universal and irremediable infamy, the reputation of a young woman who had sacrificed to him her fair name and the affections of her family. Upon the accession of King James, we find Grey urging Monmouth to undertake his rash and fatal invasion, (though in his 'Confession' he represents

his 'coldness and backwardness to engage the duke or himself in it.') When the invasion was effected, we find him obstructing its success by the most pernicious counsels, and finally defeating it by an act of the most flagrant treachery or cowardice.

It was well known with what warmth of expression he engaged to devote the whole of his future life to James. Nevertheless, at the Revolution, we find him regularly attending the Convention, in which he was one of the (Henry Lord Clarendon, in his Diary: says thirty-five, but the Journal specifies the names of thirty-six) lords, who, on Jan. 31, 1689, entered their protest against the resolution which had been carried, 55 against 41, (see Clarendon's Diary. Ralph, and after him Hume, say the majority was 11) not to agree to the vote of the Commons that the throne was vacant: and on the 4th of February he joined in a second protest on the like occasion."

Lord Grey, of Werke, was the elder son of Ralph, 2nd Lord Grey, by Catherine, his wife, dau. of Sir Edward Ford, Knt. of Hartling, in Sussex, and derived his descent from a scion of the great northern house of Grey. He succeeded to the Barony of Grey, of Werke, at the decease of his father, 15 June, 1675, and was eventually raised by William III. to the Earldom of Tankerville. By Lady Mary, his wife, dau. of George, Earl Berkeley, he had an only daughter, Mary, married to Charles Bennet, 2nd Lord Ossulston, ancestor, by her, of the present Earl of Tankerville. Lord Grey died in 1701, having been appointed in the previous year, Lord Privy Seal. His widow married secondly, a Mr. Rooth, of Epsom. The Lady Henrietta Berkeley, the unfortunate subject of this trial, was the fifth daughter of Lord Berkeley, by Elizabeth, his Countess, daughter and coheir of John Massingberd, Esq. Treasurer of the East India Company. Lady Henrietta survived until 1710. The elder of her brothers Charles, Lord Dursley, was married to Elizabeth, daughter of Baptist Noel, Viscount Campden; of her sisters, Lord Berkeley's other daughters, the eldest, the Lady Elizabeth, wedded William Smith, Esq. of the Inner Temple, but died before the painful investigation of which we are treating occurred. Lady Theophila was the second, and she married twice; first, Sir Kingsmill Lucy, Bart. of Broxbourne, Herts, and secondly, the pious and learned Robert Nelson, author of "The Feasts and the Fasts of the Church of England." Lady Arabella, the third daughter, became the second wife of William Pulteney, Esq.; the fourth, Mary, was Lady Grey, of Werke; and the sixth, Arethusa, married Charles Boyle, Lord Clifford, of Lanesborough.

The trial took place on the 23rd November, 1682, at the King's Bench Bar, in the presence of all the judges of that court, who then were, Sir Francis Pemberton, Chief Justice, Sir Thomas Jones, Sir William Dolben, and Sir Thomas Raymond, Puisné Judges. Among the counsel for the prosecution, the notorious Serjeant Jefferies appears engaged actively, and, indeed, rather creditably on this occasion.

The indictment was thus opened by the junior counsel, Edward Smith, a bencher of the Middle Temple.

Mr. *Smith.* May it please your lordship, and, gentlemen, you of the jury; Mr. Attorney General hath exhibited an information in this court, against Ford, Lord Grey of Werke, Robert Charnock, Anne Charnock, David Jones, Frances Jones, and Rebecca Jones, wherein is set forth, That the defendants, the 20th of August, in the 34th year of this King, at Epsom, in the county of Surrey, did conspire the ruin and utter destruction of the Lady Henrietta Berkeley, daughter of the Right Honourable George, Earl of Berkeley; and for the bringing about this conspiracy, they have seduced her to desert her father's house, though she be under the age of eighteen years, and under the custody and government of her father; and solicited her to reside with my Lord Grey, who was before married to the Lady Mary, another daughter of the Earl of Berkeley, and sister to the Lady Henrietta. That after they had thus inveigled her, they did upon the same 20th day of August, carry her away out of the house, without the Earl's licence, and against his will, to the intent she might live an ungodly and dishonourable life with my Lord Grey. And after they had thus carried her away, they obscured her in secret places, and shifted about from place to place, and continued this course of life ever since. And this, the information says, is to the displeasure of Almighty God, the utter ruin of the young lady, the grief and affliction of her friends, the evil example of all others in the like case offending, and against the King's peace, his crown and dignity. To this all these defendants have pleaded Not Guilty; if we shall prove them, or any of them, Guilty of any of the matters charged in this information, you shall do well to find them Guilty.

The Attorney General, (Sir Robert Sawyer,) the Solicitor General, and Sergeant Jefferies, addressed the court, each in his turn.

Att. Gen. My lord, and gentlemen of the jury, the course of our evidence will be this; That this unhappy gentleman, my Lord Grey, has for four years together, prosecuted an amour with this young lady; and when it came to be detected (some little accident discovering somewhat of it), my Lady Berkeley did find there was some business of an extra-

ordinary nature between them, and thereupon forbid my Lord Grey her house. My Lord Grey had made many pretences to my lady, that he might come to the house to give them a visit before he departed, being to go into the country; and he takes that opportunity to settle this matter of conveying the young lady away in a very short time. And early on the Sunday morning, she was, by Charnock, another of the defendants, conveyed from the house of my Lord Berkeley at Epsom, and brought here to London. We shall, in the course of our evidence, shew how she was shifted from place to place, and the several pursuits that were made in search after her. We shall discover to you, how she was hurried from one lodging to another, for fear of discovery. Nay, we shall prove, that my Lord Grey has owned and confessed that he retained her, that she was in his care and custody, and that he owned the several instances of his amours. But I had rather the evidence should speak it, than I open so much as the nature of it.

Sol. Gen. My lord, we shall call our witnesses, who will very fully make out this evidence, which Mr. Attorney has opened to you, that my Lord Grey did a long time make love to this young lady, though he were before married to her sister. This treaty was discovered by my Lady Berkeley last summer, upon an accident of surprising the young lady in writing a letter to my lord, and thereupon my Lady Berkeley chargeth my Lord Grey with these applications to her daughter, that did so much misbecome him. My Lord Grey was then so sensible of his fault, that he seemed very full of penitence, and assured my lady he would never do the like again, and earnestly desired her by all means to conceal it from my Lord Berkeley; for if this should once come to be known to him, he and the young lady would not only be ruined, but it would occasion an irreparable breach between the two families, and of all friendship between my Lord Berkeley and him. And therefore he desired my Lady Berkeley (who had justly forbid him her house for this great crime) lest the world should inquire into the causes of it, and so it should come to be known, that his banishment from her house might not be so soon or sudden. But he begged of her ladyship, that he might be permitted to make one visit more, and with all the protestations in the world assured her, it was not with any purpose of dishonour that he desired to come and see her, but that his departure might be by degrees, and so the less taken notice of. When my lady had thus charged my lord with his unworthy carriage to her family, and he had seemed thus penitent for it, she charges her daughter also, with her

giving any allowance to these unbecoming practices of my lord's; she thereupon falls down on her knees to her mother, to ask her pardon for her great offence, and, with tears in her eyes, confessed she had done very much amiss, and did humbly hope she might obtain forgiveness for it, being young, and led away by my Lord Grey, and promised she would see him no more, nor have anything more to do with him. My Lord Grey he is permitted to come once more to the house, upon those asseverations and promises of his, that it should be with no dishonourable purposes in the world. It was, it seems, in his way to his own house at Sussex, but coming thither, he takes an occasion to continue there, and stay a little too long for a visit; whereupon my Lady Berkeley began to suspect it was not a transient visit he came to make at her house, but that he had some ill design in prosecution of the same fault that he had been so long guilty of. And that suspicion of her's was but well grounded, as appeared afterwards. Our witnesses will tell you that my Lord Grey, just before his departure, was observed to be very solicitous and earnest with his man Charnock (whom we shall prove by undeniable evidence to be the man that conveyed her away) giving him some directions with great earnestness, what to do was indeed not heard, but the event will plainly shew it. For my Lord Grey himself, he went on his journey into Sussex, and lay at Guildford that night she was carried away, and the next morning she was missing. Thereupon my lady sends after my Lord Grey, justly suspecting him to be guilty of this violence and outrage offered to her daughter and family, and they overtook him at Guildford, before he was got any further on his journey, and there acquaint him the lady was carried away, and that my lady suspected (as well she might) he knew whither. Then immediately he makes haste up to town, and writes my lady a letter. that truly he would take care to restore peace to the family, that by his folly had been so much disturbed: And there were some hopes of retrieving the matter, that this scandal upon so noble a family might not be made public; for certainly an offence of this nature was not fit should be so, nor indeed was ever heard of in any Christian society: I am sure I never read of any such cause in the courts of law. And it was impossible any way to have prevented the scandal, but that which my lady took, to pass over all, by desiring to have her child restored again to her, before such time as it was gone so far, as there is too great reason to suspect it now is. But after that, my Lord Grey was so far from performing what he had so solemnly promised, and making the matter up, that he stood upon terms; he was master of the lady, and he would dispose of her as he

thought fit: Third persons and places must be appointed where she must be disposed of; with capitulations, that he should see her as often as he thought fit; which was (if possible) a worse indignity than all that he had done before.

We shall prove to your lordship, that he did, a long time before this violence was offered, make applications to this young lady, and that must (as any man will believe) be upon no good account. We shall shew all the base transactions in carrying away the lady, after that confidence which my lady reposed in his protestations to do nothing dishonourably, so as to admit him to make a visit; which certainly was the greatest breach of the very laws of human society, against all the laws of hospitality, besides the great transgressions of the laws of God and men. Yet even then, he led the lady away. For we shall plainly prove she was carried away by his coachman that once was, afterwards his gentleman, and how she was from time to time conveyed to and fro.

Mr. Serj. *Jefferies*. This story is indeed too melancholy to be often repeated, the evidence had better tell it: only this one aggravation I would take notice of, which will be made out in the proof to you of this matter charged; and that is this, That my Lord Grey, after such time as it was known she was in his power, gave one reason for his not delivering her up, (and I am sorry to see his lordship should think it a reason), he had inquired how far the law would extend in such a case, and that he knew, and could give a precedent for it (which the witness will tell you of), that the law could not reach him; and that he would not now part with her, but upon such terms, that he might have access to her when he pleased. To such a height of confidence was this gentleman arrived, in this barbarous and infamous wickedness. But, as I said, it is a story too black to be aggravated by any thing but by itself; we shall therefore call our witnesses, and prove our fact.

[About this time the Lady Henrietta came into the court, and was set by the table at the judges' feet.]

Earl of *Berkeley*. My lord, my daughter is here in court, I desire she may be restored to me.

Serj. *Jeff*. Pray, my Lord Berkeley, give us leave to go on, it will be time enough to move that anon. Swear my Lady Berkeley; (which was done, but she seemed not able to speak).

Sol. Gen. I perceive my lady is much moved at the sight of her daughter. Swear my Lady Arabella her daughter; (which was done).

Serj. *Jeff*. Pray, madam, will you acquaint my lords the judges, and

jury, what you know concerning the letter you discovered, and how you came by that discovery?

Lady *Arabella.* My mother coming to my Lady Harriett's chamber, and seeing there a pen wet with ink, examined her where she had been writing. She, in great confusion, told her she had been writing her accompts. My mother not being satisfied with her answer, commanded me to search the room. Her maid being then in the room, I thought it not so much for her honour to do it then. I followed my mother down to prayers; after prayers were done, my mother commanded my Lady Harriett to give me the keys of her closet and her cabinet. When she gave me the key, she put into my hands a letter, which was written to my Lord Grey, which was to this effect: "My sister Bell did not suspect our being together last night, for she did not hear the noise. I pray come again Sunday or Monday; if the last, I shall be very impatient."—I suppose my Lady Harriett gave my Lord Grey intelligence that this was found out; for my Lord Grey sent his servant to me, to acquaint me he desired to speak with me. When he came in first, she (I mean my Lady Harriett) fell down upon the ground like a dead creature. My Lord Grey took her up, and afterwards told me, said he "You see how far it is gone between us;" and he declared to me, he had no love, no consideration for any thing upon earth but for her; "I mean dear Lady Hen," said he to me, for I say it just as he said it. And after this, he told me, he would be revenged of all the family, if they did expose her. I told him it would do us no injury, and I did not value what he did say; for my own particular, I defied him and the devil, and would never keep counsel in this affair. And afterwards, when he told me he had no love, no consideration for any thing upon earth but her, I told my Lady Harriett, "I am very much troubled and amazed, that you can sit by and hear my Lord Grey say and declare, he has no love for any but you, no consideration for any one upon earth but you, when it so much concerns my sister; for my part it stabs me to the heart to hear him make this declaration against my poor sister Grey."—[Here she stopt a while.]

Serj. *Jeff.* Pray go on, madam.

Lady *Arabella.* After this she said nothing; I told her I suspected my woman had a hand in it, and therefore I would turn her away. This woman, when my Lady Harriett ran away, being charged with it, swore she had never carried any letters between them; but after my mother's coming to London, both the porter at St. John's, and one Thomas Plomer accused her that she had sent letters to Charnock, who was my

Lord Grey's coachman, now his gentleman. I told her then, I did much wonder, she being my servant, should convey letters between them without my knowing: she then confessed it to me, but withal she told me, "How could I think there was any ill between a brother-in-law and a sister?" And upon this she confessed to me she had sent letters to Charnock, though before she had forsworn it.

Att. Gen. Madam, have you any thing farther to testify in this cause? Have you any matters that you remember more?

Lady *Arabella.* There is more of it to the same effect; but all of it is only to this effect.

L. C. J. My Lady Arabella, pray let me ask you, have you any more to say to this matter?

Lady *Arabella.* It is all to this purpose.

Serj. *Jeff.* Then if you please, madam, to turn now your face this way towards the gentlemen of the jury, who have not heard what you said, and give them the same relation that you gave to the court; and pray be pleased to lean over the seat, and show yourself a little, and let them have the same story you told before, and pray tell the time when it was.

[Then she turned her face towards the bar,]

Lady *Arabella.* It was in July, Sir.

Serj. *Jeff.* Pray, madam, tell what happened then.

Lady *Arabella.* In July last, some time then, my mother came into my Lady Harriett's chamber, and seeing a pen wet with ink, she examined her who she had been writing to. She, in great confusion, told her she had been writing her accompts, but my mother was not satisfied with that answer. The sight of my Lord Grey doth put me quite out of countenance and patience.—[Here she stopped again.]

[My Lord Grey was then by the clerks under the bar, and stood looking very stedfastly upon her.]

L. C. J. Pray, my Lord Grey, sit down (which he did). It is not a very extraordinary thing, for a witness, in such a cause, to be dashed out of countenance.

E. of *Berkeley.* He would not, if he were not a very impudent barbarous man, look so confidently and impudently upon her.

Serj. *Jeff.* My lord, I would be very loth to deal otherwise than becomes me, with a person of your quality, but indeed this is not so handsome, and we must desire you to sit down. Pray go on, madam.

Lady Arabella then repeated the rest of the evidence she had given, and Serjeant Jefferies proceeded.

Serj. *Jeff.* Now this matter being thus discovered to the Countess of

Berkeley, this unfortunate young lady's mother; she sent for my Lord Grey, and we shall tell you what happened to be discoursed between them two, and between the lady and her mother, and what promises of amendment he made. My Lady Berkeley, pray will you tell what you know.—[She seemed unable to do it.] She is very much discomposed: the sight of her daughter doth put her out of order.

Lady *Arabella*. I have something more to say, that is, I told my Lady Harriett, after my Lord Grey had made his declaration of his love to my sister, to me, that if ever he had the impudence to name her name to me, I would immediately go to my father, and tell him all.

[Then the Countess leaned forward, with her hood much over her face.]

Att. Gen. Pray, my Lady Berkeley, compose yourself, and speak as loud as you can.

Lady *Berkeley*. When I first discovered this unhappy business, how my son-in-law, my Lord Grey, was in love with his sister, I sent to speak with him, and I told him he had done barbarously and basely, and falsely with me. That I looked upon him, next my own son, as one that was engaged to stand up for the honour of my family, and instead of that, he had endeavoured the ruin of my daughter, and had done worse than if he had murdered her. He said, he did confess he had been false, and base, and unworthy to me, but he desired me to consider (and then he shed a great many tears) what it was that made him guilty, and that made him do it. I bid him speak. He said he was ashamed to tell me, but I might easily guess. I then said, what? Are you indeed in love with your sister-in-law? He fell a weeping, and said he was unfortunate; but if I made this business public, and let it to take air (he did not say this to threaten me, he would not have me to mistake him), but if I told my lord her father, and his wife of it, it might make him desperate, and it might put such thoughts into his wife's head, that might be an occasion of parting them and that he being desperate, he did not know what he might do, he might neither consider family, nor relation. I told him this would make him very black in story, though it were her ruin. He said that was true, but he could not help it; he was miserable, and if I knew how miserable, I would pity him: He had the confidence to tell me that. And then he desired, though he said I had no reason to hear him, or take any counsel he gave me (and all this with a great many tears) as if he were my son Dursley, that I would keep his secret. "For my lord, if he heard it, would be in a great passion, and possibly, he might not be able to contain himself, but let

it break out into the world. He may call me rogue and rascal perhaps in his passion," said he, "and I should be sorry for it, but that would be all I could do, and what the evil consequence might be, he knew not, and therefore it were best to conceal it." And after many words to pacify me, though nothing indeed could be sufficient for the injury he had done me; he gave it me as his advice, that I would let my daughter Harriett go abroad into public places with myself, and promised, if I did, he would always avoid her. For a young lady to sit always at home, he said it would not easily get her out of such a thing as this. And upon this he said again, he was to go out of town with the D. of M. in a few days, and as he had been frequently in the family before, it would be looked upon as a very strange thing, that he went away, and did not appear there to take his leave. He promised me, that if for the world's sake, and for his wife's sake (that no one might take notice of it) I would let him come there, and sup before he went into the country, he would not offer any thing, by way of letter or otherwise, that might give me any offence. Upon which I did let him come, and he came in at nine o'clock at night, and said, I might very well look ill upon him, as my daughter also did (his sister Bell) for none else in all the family knew any thing of the matter but she and I. After supper he went away, and the next night he sent his page (I think it was) with a letter to me, he gave it to my woman, and she brought it to me; where he says that he would not go out of town.——If your lordship please, I will give you the letter——But he said he feared my apprehensions of him would continue.——There is the letter.

L. C. J. Show it my Lord Grey, let us see if he owns or denies it.

Lord *Grey*. Yes, pray do, I deny nothing that I have done.

Mr. Just. *Dolben*. Be pleased, madam, to put it into the court.

Att. Gen. It is only about his keeping away.

L. C. J. Shew it my Lord Grey.

Serj. *Jeff.* With submission, my lord, it is fully proved without that.

L. C. J. Then let the clerk read it, brother.

Cl. of Crown. There is no direction, that I see, upon it. It is subscribed Grey.—[Reads.]

"Madam;

"After I had waited on your ladyship last night, Sir Thomas Armstrong came from the D. of M. to acquaint me that he could not possibly go into Sussex; so that journey is at an end. But your ladyship's apprehensions of me I fear will continue; therefore I send this to assure you, that my short stay in town shall no way disturb your lady-

ship; if I can contribute to your quiet, by avoiding all places where I may possibly see the lady. I hope your ladyship will remember the promise you made to divert her, and pardon me for minding you of it, since it is to no other end that I do so, but that she may not suffer upon my account; I am sure if she doth not in your opinion, she never shall any other way. I wish your ladyship all the ease that you can desire, and more quiet than ever I expect to have. I am, with great devotion, Your ladyship's most humble and obedient servant, GREY."

Att. Gen. Madam, will you please to go on with your evidence.

Lady *Arabella.* I have one thing more to say: After this, three or four days after this ugly business was found out, I told my Lady Harriet, she was to go to my sister Dursley's. She was in a great anger and passion about it, which made my mother so exasperated against her, that I was a great while before I got my mother to go near her again.

Serj. *Jeff.* My Lady Berkeley, please to go on.

Lady *Berkeley.* When I came to my daughter, (my wretched unkind daughter—I have been so kind a mother to her, and would have died rather, upon the oath I have taken, than have done this, if there had been any other way to reclaim her, and would have done any thing to have hid her faults, and died ten times over, rather than this dishonour should have come upon my family)—this child of mine, when I came up to her, fell into a great many tears, and begged my pardon for what she had done, and said she would never continue any conversation with her brother-in-law any more, if I would forgive her; and she said all the things that would make a tender mother believe her. I told her I did not think it was safe for her to continue at my house, for fear the world should discover it, by my Lord Grey's not coming to our house as he used to do; and therefore I would send her to my son's wife, her sister Dursley, for my Lord Grey did seldom or never visit there, and the world would not take notice of it. And I thought it better and safer for her to be there with her sister, than at home with me. Upon which this ungracious child wept so bitterly, and begged so heartily of me that I would not send her away to her sister's, and told me it would not be safe for her to be out of the house from me. She told me she would obey me in any thing, and said she would now confess to me, though she had denied it before, that she had writ my Lord Grey word that they were discovered, which was the reason he did not come to me upon the first letter that I sent to him to come and speak with me. And she said so many tender things, that I believed her penitent, and forgave her, and had compassion upon her, and told her (though she had not deserved so

much from me) she might be quiet (seeing her so much concerned), I would not tell her sister Dursley her faults, nor send her thither, till I had spoken with her again. Upon which she, as I thought, continuing penitent, I kissed her in the bed when she was sick, and hoped that all this ugly business was over, and I should have no more affliction with her, especially if my lord removed his family to Durdants, which he did. When we came there, she came into my chamber one Sunday morning before I was awake, and threw herself upon her knees, and kissed my hand, and cried out, Oh, madam! I have offended you, I have done ill, I will be a good child, and will never do so again; I will break off all correspondence with him, I will do what you please, any thing you do desire. Then, said I, I hope you will be happy, and I forgive you. Oh, do not tell my father, (she said) let him not know my faults. No said I, I will not tell him; but if you will make a friend of me, I desire you will have no correspondence with your brother-in-law; and though you have done all this to offend me, I will treat you as a sister more than as a daughter, if you will but use this wicked brother-in-law as he deserves. I tell you that youth, and virtue, and honour, is too much to sacrifice for a base brother-in-law. When she had done this, she came another day into my closet and there wept very much, and cried out, Oh, madam! it is he, he is the villain that has undone me. Why? said I, What has he done? Oh! said she, he hath led me to this. Oh! said I, fear nothing, you have done nothing, I hope, that is ill, but only harkening to his love. Then I took her about the neck and kissed her, and endeavoured to comfort her. Oh, madam! said she, I have not deserved this kindness from you; but it is he, he is the villain: but I will do anything that you will command me to do; if he ever send me any letter, I will bring it to you unopened; but pray do not tell my father of my faults. I promised her I would not, so she would break off all correspondence with him——

[Here she swooned, and soon after recovered and went on.]

————Then my Lord Grey's wife, my daughter Grey, coming down to Durdants, he was to go to his own house at Up-Park in Sussex, and he writ down to his wife to come up to London.——It is possible I may omit some particular things that were done just at such or such a time, but I speak all I can remember in general. My Lord Grey, when I spoke to him of it, told me he would obey me in any thing; if I would banish him the house, he would never come near it; but then he pretended to advise me like my own son, that the world would take notice of it, that therefore it would be better for me to take her abroad with

me, he would avoid all places where she came, but he thought it best for her not to be kept too much at home, nor he absolutely forbid the house, but he would by degrees come seldomer, once in six weeks or two months. But to go on to my daughter Grey's coming down to Durdants; he writing to his wife to come up to London, that he might speak to her before he went to his own house at Up-Park; my daughter Grey desired he might come thither, and it being in his way to Sussex, I writ him word, that believing he was not able to go to Up-Park in one day from London, he might call at my lord's house at Durdants, and dine there by the way, as calling in, intending to lie at Guildford, for it is just the half-way to Guildford. He, instead of coming to dinner, came in at nine o'clock at night (I am sure it was so much) for it was so dark we could hardly see the colour of his horses, from my lord's great gate to the place where we were in the house: And coming at that time of night, I thought if I turned him out of the house, my lord would wonder at it, and so would all the family. Therefore I was forced, as I then thought, in point of discretion, to let him lie there that night, which he did; and he told me, Madam, I had not come here, but upon your ladyship's letter, nothing else should have brought me: because I was to give him leave to come, knowing the faults he had committed against the honour of our family. Upon which I told him, My lord, I hope you have so much honour and generosity in you, after the promises you have made me, and the confidence and indulgence I have shewn you, that you will give my daughter no letters, and I will look to her otherwise, that you shall have no conversation with her. He desired me to walk up with him into the gallery, and there he told me he had brought no letters, and would have had me looked into his pocket. I told him that would be to no purpose, for his man Charnock (whom we knew he did not prefer from being his coachman to be his gentleman but for some extraordinary service he did him, or he thought he would do him) might have letters enough, and we be never the wiser: but I trusted to his honour and his Christianity: and I told him that his going on in any such way would be her utter ruin. He told me he would not stay there any longer than the next day; nay, he would be gone immediately if I pleased, and he sent his coach to London, and had nothing but horses left. But his wife desiring her husband to stay, I had a very hard task to go through, being earnestly pressed, both by her and my own lord's importunities for his stay. But my Lord Grey, whilst he was there, did entertain me with his passion, he had the confidence to do it, and he wished himself the veriest rake-hell in the world, so he had never seen

her face since he was married. And, said he, madam, you will always think me a villain, and never have a good opinion of me; I shall be always unfortunate, both in myself and your bad opinion of me. Seeing this, I thought it was time to do something more; and I told him that night he should stay no longer, he should be gone; and his wife seemed to be much concerned, and would fain have him stay. For by this time she began to find out that there was some disorder in her mother and the family, though she knew not what it was; and she sent her sister Lucy to beg he might stay, I told her I would not suffer it: however, she proposed an expedient, how her sister Harriett should take physic, and keep her chamber while he was there. That I was in a sort compelled to do and I told him, upon their importunity for his stay, that his sister Harriet should be seen no more by him, but take physic while he stayed there: to which he replied, Madam, it is indeed rude for me to say it to you, but I must say it, give me my choice, either to be drowned or hanged. Upon this I was extremely disturbed, and the next morning I told him I was not satisfied he should stay in England; he had ordered his wife to go into France, and she was to go within a month after, I would have him go with her. He told me he had law-suits, and he could not; I told him, he had told me before they were of no great consequence, and therefore they could not hinder him; and I pressed him very much, and I fell into a great passion at last; and told him, if he did not go, I would tell her father and he should take care of her, to send her where she should be safe enough from him. For I was sensible the world would take notice if he came not thither; and, said I, I am not able to bear you should. Upon this, he promised me with all the oaths, imprecations, and promises in the world, that he would go and follow his wife into France at Christmas, and stay there eight months; and by that time, I did hope, this unfortunate miserable business might be over: for I had a great kindness for my child, and would have done any thing to save her, if it had been in my power, or would yet do any thing: I would give my life that the world did not know so much of it as now it must this day. The world knows I had always the greatest kindness and tenderness for her, which was such, that some that are now here have said since that it was my indulgence to her, and not making it known to my lord, that encouraged this last ill business. And thereupon my Lord Grey was ordered by me to go away, and he promised me so to do, which was upon Saturday. I then went up to her chamber, and saw her very melancholy, and did what I could to comfort her. Said I, I warrant you, by the grace of God, do but do what you ought, and

I will bring you off this business; be cheerful, and be not so much cast down (for I thought she was troubled at my carriage to her) and though I said some severe things to you at dinner (as I did talk of her going away, and being sent abroad), be not troubled, for I only meant it out of kindness to you; for all I design, is only to seek an occasion of getting him away; and therefore, as long as he stays, I will seem to whisper with you, and look frowningly upon you, and that if he hath any tenderness for you, he may see I am angry with you, and do the more to leave you at quiet: but take no notice of it, for I now smile to you, though I frowned before him, be not affrighted. In the afternoon I told her the same thing again. But then, said she, he will shew my letters to him, and that will ruin my reputation for ever, and that troubles me; but yet it need not, for I never writ to any man but him, and if he doth shew them, he will expose himself for a base unworthy man, and I can but deny it, and he can never prove it. This is true, said I, and very well said, and therefore be not afraid of him, but trust to the friendship of your mother, and do as you ought to do, and I am confident we shall bring you clear off from this ugly business. And then, said she, but oh, Madam! my sister, my sister Grey, will she forgive me this? I told her, her sister Grey was good-natured and religious, and I made no doubt she would forgive her the folly of her youth, and if she would take up yet, she was young, and her sister would impute it to that, and, said I, I am sure she will forgive you; and I told her I would do all that lay in my power to assist her; and I bid her be cheerful, and trust in God and in my friendship. She was to blame, indeed, she acknowledged, but she was young, and he was cunning, and had made it his business to delude and entice her. I told her it was true, and therefore now she must consider with herself, what was to be done to bring her off, which I doubted not, if she would do but as she ought; she promised me so to do; and yet that very night when I was in my sleep she ran away——

[Here she swooned again.]

Serj. *Jeff.* What time went my Lord Grey away, madam, that day?

Lady *Berkeley.* He went away about four o'clock in the afternoon.

Serj. *Jeff.* And the ensuing night the lady was gone?

Lady *Berkeley.* Yes, that night she went away too.

The Lady Theophila Lucy (wife of Sir Kingsmill Lucy, Bart.) another sister-in-law of the accused, gave some additional testimony as to her following Lord Grey, when her sister was missed, and overtaking him; Lord Grey then pretended to Lady Lucy that he

knew nothing of the elopement. Several other witnesses proved that Charnock and his wife assisted the Lady Harriett in her flight, and took lodgings for her; that she lodged at the Jones's at Charing Cross, and was attended and taken care of by Jones and his wife; and that Lord Grey came to visit the Lady Harriett there, and at other lodgings, in a disguise. The evidence of one witness to this portion of the case, a Captain Fitz-Gerrard, is quaint, and curious.

Capt. *Fitz-Gerrard.* My lord, it was my fortune six months ago, to take a lodging at Mr. Jones's, and while I kept my lodgings there, I had occasion sometimes to go to Windsor, to wait upon his majesty; and one night coming home to my lodging, my servant that waits upon me in my chamber, told me there was a lodger lately come to the house, who lay in the upper rooms. I asked who it was; he told me the maid of the house told him it was a mistress of my Lord Grey's. I asked how long she had been there; he said it was but two or three days since she came. I never thought of this for four or five days after, nor thought myself obliged to take notice of the discourse of the servant in the house; but being in Covent Garden in company, there was some discourse about my Lady Harriett Berkeley's being gone from her father's, as it was the talk of the town. I came home about nine o'clock at night, and having no servant just then ready to wait upon me, Mr. Jones himself came very kindly to put me to bed. I had some fancy, upon the discourse of the town, this might be my Lady Harriett. Upon which, I said to Mr. Jones, you cannot but hear of the report of my Lady Berkeley's being run away from her father, and I know you have a dependance upon my Lord Grey, and I have a suspicion you conceal her in your house. If you do, said I, you do a very dishonest thing, a very ill thing, and occasion a great deal of trouble and disquiet to a noble family. And possibly my lord and my lady may not know she is alive; therefore, I desire you as a friend to make a discovery of the lady, that they may know where she is. He seemed very angry upon my saying of this, and told me, as long as I lodged in his house quietly, I need not trouble myself who lodged there besides. Upon that I thought more earnestly upon this thing; and I told him again, I am resolved to go into the room, and know who this lady is that lies here, for now I suppose there is something more in it. Says he again, nobody shall offer such a rudeness in my house. Said I, I assure you I will do it. He grew very angry, but I went from him to my sword and was going up. Says he, pray Mr. Fitz-Gerrard do not offer such a thing as this is; you would take it unkindly yourself to have your house searched at this time

of night. Well, said I, upon condition that I may see her to-morrow morning before she goes away, who she is, I will make no disturbance in your house to-night. Upon that he left the room, promising me I should to-morrow morning see who the lady was. I went out early the next morning upon some necessary business, and coming home between eleven and twelve o'clock, said I to him, now is a very civil time to see this lady, who she is, for it is not fit you should receive any person into your house, in such circumstances, when there is such a cause of suspicion. Says he, she is now gone out of the house. And this is all that I can say in this matter, I never saw the lady there then, nor did I ever see her in my life but once or twice at Epsom.

The final evidence for the prosecution was also of a singular nature; the party who gave it seems to have been a kind of spy set on Lord Grey. The testimony is as follows:—

Serj. *Jeff.* My lord, we have but one witness more, and that is a gentleman, who, by order from my Lord and Lady Berkeley, kept my Lord Grey company, and he will tell your lordship what my Lord Grey confessed to him, what a passion he had for the lady, and what methods he used to get rid of it, but could not. Swear Mr. Craven: [which was done.]

Sol. Gen. Will you tell my lord and the jury, whether you were sent by my Lord Berkeley to be with my Lord Grey at Up-Park, and what passed between you?

Mr. *Craven.* My lord, the Wednesday after my Lady Harriett Berkeley went away, my Lady Berkeley told me my Lord Grey had proffered he would go down into the country for six months, to shew that he had no designs upon her; and therefore, if she would propose some friend of her's to go along with him to keep him company, he would be very well satisfied with it; and then my Lady Berkeley told me she would fix upon nobody but me, if he would take me with him. Then I met my Lord Grey on Wednesday morning at Sir Thomas Armstrong's, and afterwards went down to his house to him. When I came there, he met me on horseback, and came up civilly and kindly to me. I thought fit to give him a caution, having received such orders from my lady. My lord, said I, I am sorry I am forced to come upon such an account as this, to be a guard over your words and actions; and I am very much troubled that this unfortunate thing has happened, and you are reputed to be the occasion of it. Says he, I do own, Craven, I have done a very ill thing; but that is past, I cannot help that now; but the thing that is to be thought on is, what is to be done for the future. My lord, said

I, the best way, if I may give you my advice, were to send her home again, before any report be spread abroad of the business. How can that be? says he, I do not know where she is, but I have had a letter from her, as I told my lady, I did believe I should find a letter here when I came down. I will shew you the letter, which he did. My lord, said I, this letter will be thought as of your penning before you came out of town. I cannot tell what they will think, said he, but here it is. Said I, my lord, I have a great respect for your lordship, and do very much desire, for your own reputation and honour, as well as their's, it may be made up in some way before it be too public. We were discoursing of this. How shall that be done, says my Lord Grey. My lord, said I, if you would consent to this, to send her over into France, to Calais or Dieppe, we will there find some body that will help her into a nunnery; and when she is there, she may write to her mother, that she found she had an intention to marry her to a match she could not by any means approve or like of, and therefore she went away to prevent her being forced to it; and this would be as plausible a thing as any in the world. And when that letter should come, my Lady Berkeley should shew it about to her friends; nay more, she should go over herself to fetch her back again, that she might receive her into her house with honour. He said, that was a very plausible thing, and he would do it, if he could tell where she was; but her letter to him was, that she was gone from her father, but she did not think fit to let him know where she was, for fear he should deliver her up again. Then my Lord Grey asked me in what condition they were all at my Lord Berkeley's about it. Said I, they are in such a confusion and trouble they are all mad almost. Says he, how does my lord bear it? Said I, he is so afflicted that it will go near to break his heart. Says he, he is indeed one of the men in the world that is to be pitied; she pitieth him very much, but for her mother she doth not care. One day when we went out a shooting, as we did several days together; Mr. Craven, says he, I will tell you the whole intrigue between my Lady Harriett and I. I have had a great affection for her ever since she was a child, and have always been taking great delight in her company; and keeping her company so often till she grew up, my passion grew to that height, that I could stifle it no longer, but I was forced to tell her of it, and then I could not speak to her of it, but writ. But withal I begged her to take no notice of it to any body, for if she did it would ruin us both. She was very angry to hear of it, and neither by writing nor speaking could I perceive she had any affection for me again till the Parliament sat at Oxford; and then

I did pursue my love, and at last, she one day told me, said she, I have now considered of it, and if you do not leave writing or speaking to me of this matter, the very first time you write or speak to me again, I will tell my father and mother of it. That struck him so, he said, that he did not know almost what to say or what to do, and he walked up and down just like a ghost; but he hid it as well as he could, that it should not be perceived by others. But that parliament being quickly dissolved, he did intend to go down to Sussex to his house there, as he found she was resolved against admitting his affection, and he would stay there several years, till he had weaned himself of his passion, and by that time she would be disposed of otherwise, and he might be at ease. And he, hiding his trouble as much as he could from my Lord Berkeley and my lady, forbore to speak to her, but only when he saw her he could not forbear looking earnestly upon her and being troubled. My Lord Berkeley, not knowing anything of it, asked him to go to London with us, and not to Sussex? he was very much persuaded by my lord and my lady to it: and at last my Lady Harriett Berkeley came to him, and told him, said she, you are very much persuaded by my father and mother to go to London and not to Up-Park; why do not you go with them? Madam, says he, you have stopped my journey to London; you have hindered my going with them, for I will rather suffer any thing than render you any disturbance, and if I go to London with you, I shall not be able to contain myself; but if I go to Sussex, I alone shall have the trouble of it. But one day, when my Lord of Aylesbury was leading my Lady Berkeley, and my Lord Grey was leading my Lady Harriett, she took my Lord Grey's hand and squeezed it against her breast, and there was the first time he perceived she loved him again; and then she told him he should go to London with them; and he did go, and from that time, for a twelve-month before she went away, he did see her frequently, almost every night, pursuing his amour in writing, and speaking to her as often as he could have opportunity.

Att. Gen. Pray tell us on what terms he insisted upon, for his parting with her, and what he said the law was in the case?

Mr. *Craven.* I told him, my lord, besides the dishonour you bring upon yourself and two noble families, you should do all that in you lies to avoid the punishment that will come upon you for it by the law. Oh, says he, you mistake yourself in that, for you must think I have considered of all that before; they cannot do any thing in law against me for it; let them examine the case of Mrs. Heneage and my Lord Cavendish.

Att. Gen. What, did he say he would not part with her but upon terms?

Mr. *Craven.* He said, I cannot persuade her, and I will not betray her. Truly, said I, my lord, you had better betray her, and when she comes to be sensible of her own good, she will thank you for it. Then he owned he had her in his power, but would not part with her never to see her again.

Att. Gen. What were the terms he stood upon?

Mr. *Craven.* My Lady Berkeley sent me to the coffee-house, and desired me to ask him, if he would give her an answer to what she had met him at my lord chief justice's about. My lord told me, he did not approve of sending her to the place proposed, but he would send her to his own sister, his brother-in-law Mr. Nevil's. I told my lady of it, who said, if he did state the case right to Mr. Nevil, she was sure he would not receive her, nor let him come to her if he did. After that Mr. Petit's was proposed, so he might visit her. But he did say, if that be the design, that they would have her from me, and I not to come at her when I please, they shall never see her while they live, nor will I ever deliver her.

Serj. *Jeff.* We rest here, to know what they on the other hand say to it, and we think this foul fact is fully proved.

Lord *Cavendish.* My lord chief justice, I desire to be heard one word in this matter. This gentleman, Mr. Craven, that was last examined, has been pleased to tell a very long improbable story in itself, and amongst other things that he has said, he has been pleased to make use of my name impertinently enough: for he speaks of a case that that noble lord, he says, was pleased to mention to him.

Lord Chief Justice. My Lord Cavendish, I could have wished he had not named your lordship, because it was not at all to the purpose.

Lord *Cavendish.* My lord, I am not concerned at it at all, more than at the impertinency of his using my name.

L. C. J. I could have wished, indeed, the gentleman had spared your lordship's name.

Lord Grey, in his defence, protested his innocence. No man, he said, ever lay under a more infamous accusation: his honour was at stake, and if his life was so too, he should not be more concerned to save it, than he was to clear his reputation. Was he guilty of the villainy laid to his charge, he needed no other punishment; he was sure he could not have a worse than the reflection of his own conscience for it; and he ought to be banished the society of mankind. He confessed he was so unhappy as to have a great kindness for the unfortunate lady, though

not a criminal one, as the witnesses would have it believed. He protested he was no way assisting to her escape, or privy to it: nor had he ever detained her from her father, though he had suffered a fortnight's close confinement for it. That one day, when he was at a coffee-house in Covent Garden, indeed, the young lady called in a coach at the door, and sent for him; and when he came to the coach side, she gave him a tedious history of her ill usage at home, which made her come away. He observed, that he acquainted his lordship, the Chief Justice, when the warrants were out to search for her, that she sought only for protection, and was willing to return home, if she might be secured from being ill-treated again. And then, when his lordship said, he, Lord Grey, could not protect her against her father, he answered, she was not in his house, nor in his custody; and his only crime was, that he knew where she was. If he deserved punishment for keeping his word and faith with her, which he gave her upon her importunity in a letter, *that he would not betray her*, he must submit to it, he could not do otherwise.

The Lady Harriett herself being sworn, at the desire of Lord Grey's counsel, deposed that his lordship had no hand in her escape: she had no advice from him or any body about him to go away: nor did she see Lord Grey till a great while after she went from her father's; the first time was in a hackney coach, at a coffee-house door in Covent Garden: nor did any of those mentioned in the information assist her to escape from Durdants. Her ladyship then desired to clear her reputation, and tell the cause of her coming away from her father's; but the Chief Justice said he saw no reason to indulge her so far, unless she had appeared more ingenuous in her evidence. She had injured her own fame, had degraded herself, and was not to be believed.

After the Lord Chief Justice had summed up the evidence, and the jury had withdrawn to consider their verdict, the following extraordinary scene took place in open court.

Earl of *Berkeley*. My lord chief justice, I desire I may have my daughter delivered to me again.

L. C. J. My Lord Berkeley must have his daughter again.

Lady *Henrietta*. I will not go to my father again.

Just. *Dolben*. My lord, she being now in court, and there being a writ De Homine Replegiando against my Lord Grey, for her, upon which he was committed, we must now examine her. Are you under any custody or restraint, Madam?

Lady *Henrietta*. No, my lord, I am not.

L. C. J. Then we cannot deny my Lord Berkeley the custody of his own daughter.

Lady *Henrietta.* My lord, I am married.

L. C. J. To whom?

Lady *Henrietta.* To Mr. Turner.

L. C. J. What Turner? Where is he?

Lady *Henrietta.* He is here in court.

[He being among the crowd, way was made for him to come in, and he stood by the lady and the judges.]

L. C. J. Let's see him that has married you. Are you married to this lady?

Mr. *Turner.* Yes, I am so, my lord.

L. C. J. What are you?

Mr. *Turner.* I am a gentleman.

L. C. J. Where do you live?

Mr. *Turner.* Sometimes in town, sometimes in the country.

L. C. J. Where do you live when you are in the country?

Mr. *Turner.* Sometimes in Somersetshire.

Just. *Dolben.* He is, I believe, the son of Sir William Turner that was the advocate; he is a little like him.

Serj. *Jeff.* Ay, we all know Mr. Turner well enough. And to satisfy you this is all a part of the same design, and one of the foulest practices that ever was used, we shall prove he was married to another person before, that is now alive, and has children by him.

Mr. *Turner.* Ay, do, Sir George, if you can, for there never was any such thing.

Serj. *Jeff.* Pray, Sir, did not you live at Bromley with a woman, as man and wife, and had divers children, and living so intimately, were you not questioned for it, and you and she owned yourselves to be man and wife?

Mr. *Turner.* My lord, there is no such thing; but this is my wife I do acknowledge.

Att. Gen. We pray, my lord, that he may have his oath.

Mr. *Turner.* My lord, here are the witnesses ready to prove it that were by.

Earl of *Berkeley.* Truly as to that, to examine this matter by witnesses, I conceive this Court, though it be a great Court, yet has not the cognizance of marriages: and though here be a pretence of a marriage, yet I know you will not determine it, how ready soever he be to make it out

by witnesses, but I desire she may be delivered up to me, her father, and let him take his remedy.

L. C J. I see no reason but my lord may take his daughter.

Earl of *Berkeley*. I desire the Court will deliver her to me.

Just. *Dolben*. My lord, we cannot dispose of any other man's wife, and they say they are married. We have nothing to do in it.

L. C. J. My Lord Berkeley, your daughter is free for you to take her; as for Mr. Turner, if he thinks he has any right to the lady, let him take his course. Are you at liberty and under no restraint?

Lady *Henrietta*. I will go with my husband.

Earl of *Berkeley*. Hussy, you shall go with me home.

Lady *Henrietta*. I will go with my husband.

Earl of *Berkeley*. Hussy, you shall go with me, I say.

Lady *Henrietta*. I will go with my husband.

Mr. *Williams*. Now the lady is here, I suppose my Lord Grey must be discharged of his imprisonment.

Serj. *Jeff*. No, my lord, we pray he may be continued in custody.

L. C. J. How can we do that, brother? the commitment upon the writ De Homine Replegiando is but till the body be produced; and here she is, and says she is under no restraint.

Serj. *Jeff*. My lord, if you please to take a little time to consider of it, we hope we may satisfy you that he ought still to be in custody.

L. C. J. That you can never do, brother.

Serj. *Jeff*. But your lordship sees upon the proofs to day this is a cause of an extraordinary foul nature, and what verdict the jury may give upon it we do not know.

Att. Gen. The truth of it is, we would have my Lord Grey forthcoming, in case he should be convicted, to receive the judgment of the Court.

L. C. J. You cannot have judgment this term, Mr. Attorney, that is to be sure; for there are not four days left. And my Lord Grey is to be found to be sure; there never yet, before this, was any thing that reflected upon him, though this, indeed, is too much and too black if he be guilty.

Just. *Dolben*. Brother, you do ill to press us to what cannot be done; we, it may be, went further than ordinary in what we did, in committing him, being a peer, but we did it to get the young lady at liberty; here she now appears, and says she is under no restraint; what shall we do? She is properly the plaintiff in the Homine Replegiando, and must declare, if she please, but we cannot detain him in custody.

L. C. J. My lord shall give security to answer her suit upon the Homine Replegiando.

Mr. *Williams.* We will do it immediately.

L. C. J. We did, when it was moved the other day by my brother Maynard, who told us of ancient precedents, promise to look into them, and when we did so, we found them to be as much to the purpose, as if he had cast his cap into the air; they signified nothing at all to his point. But we did then tell him (as we did at first tell my lord so) if he did produce the lady, we would immediately bail him. And she being now produced, we are bound by law to bail him. Take his bail.

[And accordingly he was bailed at the suit of the Lady Henrietta Berkeley, by Mr. Forrester, and Mr. Thomas Wharton.]

Earl of *Berkeley.* My lord, I desire I may have my daughter again.

L. C. J. My lord, we do not hinder you, you may take her.

Lady *Henrietta.* I will go with my husband.

Earl of *Berkeley.* Then all that are my friends seize her, I charge you.

L. C. J. Nay, let us have no breaking of the peace in the Court. But, my Lord Cavendish, the Court does perceive you have apprehended yourself to be affronted by that gentleman Mr. Craven's naming you in his evidence; and taking notice of it, they think fit to let you know, that they expect you should not think of righting yourself, as they have some thoughts you may intend. And therefore you must lay aside any such thoughts of any such satisfaction. You would do yourself more wrong by attempting to right yourself in any such way.

Lord *Cavendish.* My lord, I am satisfied that your lordship does think it was impertinently spoken by him, and shall not concern myself any further, but only desire that the Court would give him some reproof for it.

Then the Court broke up, and passing through the hall there was a great scuffle about the lady, and swords drawn on both sides, but my lord chief justice coming by, ordered the tipstaff that attended him (who had formerly a warrant to search for her and take her into custody) to take charge of her, and carry her over to the King's-bench; and Mr. Turner asking if he should be committed too, the chief justice told him he might go with her if he would, which he did, and as it is reported, they lay together that night in the Marshal's-house, and she was released out of prison, by order of the Court, the last day of the term.

On the morning after the trial, being Friday the 24th November, the jury that tried the cause, (as is usual in all cases not capital tried at the bar, where the Court do not sit long enough to take the verdict)

gave in a private verdict the evening before, at a judge's chamber; which was, that all the defendants were guilty of the matters charged in the information, except Rebecca Jones, who was not guilty; which verdict being recorded, was commended by the Court and the king's counsel, and the jury discharged.

But in the next vacation the matter was compromised, and so no judgment was ever prayed, or entered upon record, but Mr. Attorney-General was pleased, before the next Hilary-Term, to enter a Noli Prosequi as to all the defendants.

THE TRIAL OF CAPTAIN SAMUEL GOODERE AND MATTHEW MAHONY, FOR THE MURDER OF THE CAPTAIN'S BROTHER, SIR JOHN DINELEY GOODERE, BART.

THIS murder, called at the time "The Bristol Fratricide," is one of the most daring and dreadful crimes on record. One brother, a captain in the Royal Navy, and an officer of well-earned reputation, seizes upon the other brother, a baronet, in the midst of the crowded city of Bristol, drags him, with the aid of a gang of ruffians, through the streets, conveys him on board his vessel, and has him there strangled the same night. The facts will be amply given in the following abridged report of the trial, which it may be as well to precede with a short account of the Goodere family.

Edward Goodere, Esq. of Burhope, in the co. of Hereford, M.P. for Evesham, and afterwards for Herefordshire, was created a baronet in 1707. He married Eleanor, only daughter and heiress of Sir Edward Dineley, Knt. of Charleton in Worcestershire, and had by her two sons and a daughter. The elder of these sons, and the successor to the baronetcy, was the unfortunate Sir John Dineley Goodere, the person murdered; the murderer was the younger son, Captain Samuel Goodere. The daughter, Eleanor, their only sister, was married to Samuel Foote, Esq. of Truro, M. P. for Tiverton, by whom she had with other issue John Foote, who, pursuant to what is stated in the trial, became his uncle Sir John's heir, and assumed the name of Dineley. Another son of Mr. and Mrs. Foote was Samuel Foote, the celebrated wit and dramatist. The murderer succeeded as third baronet, in conseqence of his victim's death: he was when he committed the offence captain of the Ruby man of war, and had distinguished himself in his profession at the capture of St. Sebastian, Ferral, and St. Antonio.

The trial took place (after a short adjournment in consequence of Goodere's ill health) on the 26th March, 1741, at the Sessions Court of the city of Bristol, before the Mayor, Henry Combe, Esq. and the Recorder, Michael Foster, Serjeant at Law.

The case was thus stated for the crown :—

Mr. *Vernon*. May it please you, Mr. Recorder, and you gentlemen that are sworn on this jury, I am counsel for the king against the prisoners at the bar, who stand indicted for the murder of Sir John Dineley Goodere; they stand also charged on the coroner's inquest with the same murder: and though it is impossible for human nature not to feel some emotions of tenderness at so affecting a sight as now presents itself at the bar; yet, gentlemen, should the guilt of this black and frightful murder be fixed upon the prisoners (as from my instructions I fear it will) pity must then give way to horror and astonishment at the baseness and barbarity of the fact and circumstances; and our sorrow ought to be, that through the lenity of the laws, the unnatural author and contriver of so shocking a piece of cruelty, and this his brutal accomplice in the ruffianly execution of it, should be to share the common fate of ordinary malefactors. Gentlemen, you perceive it is laid in the indictment that the prisoner Mahony strangled the deceased, and that the prisoner Goodere was present, aiding and abetting him in that barbarous action, and so involved in the same guilt, and equally a principal in the murder: but, gentlemen, Mr. Recorder, I believe, will tell you, that the only matter for your enquiry will be, whether the prisoners were concurring in the murder of the deceased, and present at the strangling of him; for if so, whether Mahony, Mr. Goodere, or another in fact strangled him, it will in consideration of law be the same thing, and the act of strangling will be as much imputable to each of them, as if they had both assisted in putting the cord about the neck of the deceased, and been his actual executioners; nor will it be material, whether they strangled him with a rope, a handkerchief, or their hands, so the kind of death be proved. And, gentlemen, as to the crime set forth in the indictment, I have matter, in my brief, for a very heavy charge against both the prisoners, but distinguished against the prisoner Mr. Goodere with this black characteristic, that he was brother of the deceased, and, as such, bound by the ties of blood and nature to have preserved his person from violence; and yet, gentlemen, I am afraid it will appear that his brother died by his procurement, and in his presence, which is the same, in effect, as if he had perished by his hand. But as it would ill become me to aggravate in a case of this nature, I shall only state to

you the most material passages relating to the murder of that unfortunate gentleman, and leave the rest to come from the mouths of the witnesses themselves. And, gentlemen, (as I am instructed) there had been a long and very unhappy difference between the deceased Sir John and his brother, the prisoner, owing to various occasions; and amongst others, to Sir John's having cut off the entail of a large estate in Worcestershire, to which Mr. Goodere (as the next remainder man) would have otherwise stood entitled, in default of issue of Sir John. Gentlemen, this misunderstanding by degrees grew to an inveterate grudge and hatred on the part of Mr. Goodere; which was so rooted in his heart, that it at length worked him into a formed design of destroying his brother, and making away with him at all hazards and events. The great difficulty was, how to get Sir John into his power, for he generally travelled armed; nor was it easy to get together a set of fellows so base and desperate, as to join with him in the carrying off his brother. But unfortunately for the deceased, the prisoner, Mr. Goodere, having been lately honoured by his majesty with the command of the Ruby man of war, happened, in January last, to lie stationed in King-road, (as much within the county of Bristol as the Guildhall where this court is sitting.) Sir John (who was advanced in years, and very ailing) had, it seems, been advised to come to Bath for the recovery of his health: and having occasion to transact affairs of consequence at Bristol with Mr. Jarrit Smith, Mr. Goodere took this opportunity of laying a snare for his brother's life, as you will find by the event. He applies to Mr. Smith, and taking notice to him of the misunderstanding between himself and his brother, pretends a sincere desire of reconciliation, and desires Mr. Smith, if possible, to make up the breach between them; and Mr. Smith promised to do his utmost towards effecting a reconciliation, and was as good as his word; for, by his interest and persuasions, he at length prevailed upon Sir John to see and be reconciled to his brother; and Sir John having appointed Tuesday the 13th January last, in the morning, for calling on Mr. Smith at his house in College-Green, Mr. Smith soon made his brother, Mr. Goodere, acquainted therewith; and no sooner was he informed of it, but he begun to take his measures for the executing his wicked scheme against his brother's life. For on Monday (the day before Sir John was to be at Mr. Smith's) Mr. Goodere, with the other prisoner Mahony, (his inseparable agent and companion in every stage of this fatal business) went together to the White Hart, an ale-house near the foot of College-Green, in the view of, and almost opposite to Mr. Smith's, in order to see if it was a fit place for their

desperate purpose; and finding it to be so, Mr. Goodere commended the pleasantness of the closet over the porch, and said he would come and breakfast there the next day. And accordingly the next morning (which was Tuesday the 13th) Mr. Goodere, with his friend Mahony, and a gang of fellows belonging to the privateer called the Vernon, whom they had hired to assist them in the way-laying and seizing of Sir John, (but whom, one would have thought, the name of that gallant admiral should have inspired with nobler sentiments) came to the White Hart, where having ordered they should have what they would call for, he went himself to breakfast in the closet over the porch, from whence he had a full view of Mr. Smith's house, whilst the others posted themselves below on the look-out for Sir John; and it was not long before he came on horseback to Mr. Smith's: but his stay was very short, being obliged to go to Bath; however, he promised Mr. Smith to be in Bristol again by the Sunday following. He was seen from the White Hart by Mr. Goodere and his spies upon the watch; but having a servant, and riding with pistols, they did not think proper to attempt the seizing of him then; but, as he rode down the hill by St. Augustine's back, Mr. Goodere called out to Mahony in these words, "Look at him well, Mahony, and watch him, but don't touch him now." And in fact, gentlemen, the prisoners and their companions followed and watched Sir John a considerable way. Afterwards Mr. Smith acquainted the prisoner Mr. Goodere, that his brother was to be with him on the Sunday following; and little thinking that an interview between brothers could be of a fatal tendency, advised him to be in the way, that he might bring them together: which advice the prisoner observed with but too great punctuality, taking care, in the interim, to lay such a train, as that it should be hardly possible for his brother to escape falling into his hands. He ordered the man of war's barge to be sent up for him on the Sunday; accordingly it came up about two or three that afternoon; of which Mr. Goodere being informed by one Williams a midshipman, whom he had ordered up in it, he enquired of Williams if he knew the river, and the Brick-kilns going down it? And Williams telling him he did, Mr. Goodere ordered him to get all the boat's crew together, and be sure to place the barge at the Brick-kilns, and leave but two or three hands to look after the barge, and bring all the rest of the men to the White Hart ale-house, and wait for him there, for he had a certain person coming on board. Accordingly, gentlemen, Williams and most of the barge-men came to the place of rendezvous at the White Hart, where Mahony, with several of the privateer's men (I believe all, or most of

the same gang that had been there on the watch the Tuesday before) were also met by Mr. Goodere's orders to way-lay and seize Sir John, and stood at the window on the look-out, in order to watch his coming out of Mr. Smith's. Thus the ambuscade being laid, the prisoner Mr. Goodere goes to Mr. Smith's about three in the afternoon (the hour at which Sir John had appointed to be there); he went directly towards his brother Sir John, and kissed him (what kind of kiss it was will best appear by the sequel), and observed to him with an outward show of satisfaction, that he looked in better health than he had formerly done. Mr. Smith was so good to drink friendship and reconciliation between the two brothers: Mr. Goodere pledged it in a glass of wine, which he drank to his brother Sir John; and Sir John (being under a regimen) offered to pledge him in water, little thinking his brother designed to end their differences, by putting an end to his life. But that, gentlemen, you'll soon see was the sole end he had in view; for Sir John in about half an hour taking his leave, Mr. Goodere was following him: Mr. Smith stopt Mr. Goodere, saying, "I think I have done great things for you." Says Mr. Goodere, "By God, this won't do;" and immediately followed his brother: and meeting some of the sailors whom he had posted at the White Hart, says to them, "Is he ready?" and being answered, "Yes," he bid them make haste. Mahony, and the other fellows who were on the look-out at the White Hart, seeing Sir John go down St. Augustine's Bank, immediately rushed out, and (as they had been ordered by Mr. Goodere) seized Sir John as their prisoner. Just then Mr. Goodere himself was come up, and had joined his companions, and showed himself their ringleader: for (according to my instructions) he gave them positive orders to carry Sir John on board the barge, and they but too exactly observed the word of command. They hurried on Sir John with the utmost violence and precipitation, forcing him along, and even striking him in the presence of his brother, and (as the Romans used to do their malefactors) dragged him through the public way. The poor unfortunate creature made repeated outcries of murder, that he was ruined and undone, for his brother was going to take away his life. He made what resistance he could, and called aloud for help, but all was to no purpose. Several persons indeed followed them, and asked what was the matter? But they were answered by Mr. Goodere and his associates, that the person they were hauling along was a murderer, had killed a man, and was going to be tried for his life. The most of this ruffianly crew being armed (it seems) with bludgeons and truncheons, obliged the people who came about to keep off, holding up their sticks

at them, and threatening to knock them down. Gentlemen, when they had thus forced Sir John towards the end of the rope-walk, Mr. Goodere (who all along bore them company, and animated them as they passed along) bid them make more dispatch, and mend their pace. Accordingly they took up Sir John, and carried him by main force a considerable way, then set him down again, and pushed and hauled him along, till they had got him to the slip (opposite to the King's Head). Sir John cried out, "Save me, save me, for they are going to murder me." There the barge came up, and the prisoner Mr. Goodere had his brother forced on board, and with Mahony and the rest went also into the barge. Sir John then called out, "For God's sake run to Mr. Smith, and tell him I am going to be murdered, or I am an undone man." And crying out that his name was Dineley, Mr. Goodere stopt his mouth with his hand, to prevent his telling his other name: and though Sir John was in an ill state of health, yet his hard-hearted brother forcibly took his cloak from off his back, and put it upon himself: and having thus got him into his power, he ordered the men to row off, telling his brother, that now he had got him into custody he would take care of him, and prevent his making away with his estate. But, gentlemen, in fact, so little did he think himself concerned in what Sir John did with the estate, that he was of opinion, no act of Sir John's could affect it longer than his life; and that it must necessarily devolve to him (as the next in remainder) on his brother's dying without issue. And this, gentlemen, he declared to Mr. Smith but a few days before. And indeed his brother at once saw what kind of prevention it was he meant; "I know," says he to Mr. Goodere, (soon after his being forced into the barge) "you intend to murder me this night, and therefore you may as well do it now, as carry me down." Poor gentleman, his heart misgave him, that the design of this base and daring outrage was to make the ship his prison, one of his cabins his slaughter-house, and the sea his grave, and therefore he made it his choice to be thrown overboard in the river (where his body might be found) rather than buried in the ocean. The prisoner Goodere denied, indeed, he had any such design, but yet could not refrain from the usual exhortation to dying persons, that he would have him make his peace with God. At the Redclifft the privateer's men were set on shore; and I think about seven in the evening the barge reached the Ruby man of war, then in King-road. Mr. Goodere had in their passage talked of bleeding and purging his brother to bring him to his senses, pretending he was a madman; for he knew very well that very few of his own men would have assisted him in such

an enterprize, had they not been under a belief that his brother was really mad. And to keep up such a notion, as soon as he had got him on board the Ruby, he hurried him down what, I think, they call the gangway, into the purser's cabin, making an apology, that he had brought a mad fellow there; then ordered two bolts to be clapt on the cabin-door, for the making his prison more secure, which was accordingly done. And now having made his brother a prisoner, his next step was to destroy him. He took Mahony with him into his own cabin, and there the cruel means of murdering his brother was concerted between them. They agreed to strangle him; and engaged one White (who is hereafter to stand to the justice of his country) to assist them in the butchery. I should have told you, gentlemen, that it is usual in ships of war to place a sentinel over persons under arrest; and accordingly one was placed by Mr. Goodere's orders, with a drawn cutlass in his hand, at the door of the cabin where Sir John was confined. This sentinel, about twelve at night, was relieved by one Buchannan. It was impossible for the prisoners to put their wicked design into execution, whilst this Buchannan remained at the cabin door; so, to remove that obstacle, Mr. Goodere, (after having been in close conference with Mahony and White) comes down to the purser's cabin, takes the cutlass from Buchannan, and orders him on deck, posting himself at the door of the purser's cabin, with the drawn cutlass in his hand. I shall open none of the circumstances disclosed by Mahony in his confession, as being no evidence against Mr. Goodere, but it will be made appear to you in proof, that Mahony and White came to the purser's cabin whilst Mr. Goodere stood posted at the door of it; that they were let into the purser's cabin by Mr. Goodere himself. Mahony, in particular, was seen by one Macguiness (who kept watch in the gun-room) to go into the purser's cabin, Mr. Goodere at the same time standing sentinel at the door of it, and waving his cutlass at Macguiness, to make him keep back. He did so; but Mr. Goodere waved the cutlass at him a second time, and bid him keep back. Then, gentlemen, it was that Mr. Goodere and his two accomplices effected the cruel murder of his unfortunate brother. Mahony was heard to bid him not stir for his life; and then in conjunction with White, whilst Mr. Goodere stood watch for them at the cabin door, (which Mr. Recorder will tell you was the same as being actually within it) fell on this unhappy gentleman as he lay in the cabin: And one of them having half throttled him with his hands, they put a rope about his neck, and at length strangled him. Great were his agonies, and long and painful the conflict between life and

death. He struggled violently, and kicked against the cabin, crying out several times very loud, "Murder! must I die! Help, for God's sake; save my life, here are twenty guineas, take it:" for he well knew they were strangling him by his brother's orders, and therefore offered them a bribe to spare his life; but the ruffians were relentless and inexorable. The ship's cooper (one Jones) and his wife, lying in the adjoining cabin, heard his dying out-cries, and the noise occasioned by his kicking; his cries too were heard by others far beyond the cabin door. Nature at length gave way, and he expired under these cruelties. Then Mahony called for a light, that they might have all the evidence of their eye-sight that Sir John was actually dead; and (which is a shocking circumstance in the case) Mr. Goodere himself handed them in the candle on that occasion. Buchannan perceiving the light disappear, was coming to him with another; but Mr. Goodere waved his cutlass at him to stand off. Such, gentlemen, was the fatal conclusion of this tragical business. What was seen by the cooper and his wife after the candle's being handed in, with regard to rifling the deceased, I choose shall come from their own mouths. The murder being thus effected, Mr. Goodere locked the door, and withdrew to his own cabin; Mahony and White were, by his order, put aboard the yawl, and sent to Bristol. They did not fly the city, gentlemen, depending that their fellow-murderer would somehow smother this deed of darkness, and take care of their security for the sake of his own. But Divine Providence ordered otherwise. The honest cooper, though he durst not give the alarm whilst the murder was committing, for fear of sharing the same fate with Sir John, yet as soon as he could with safety, made a discovery of the whole that he had heard and seen. It was concluded Mr. Goodere had made away with his brother, which too evidently appeared on the cooper's forcing open the purser's cabin door where Sir John lay murdered, and thereupon the cooper had the resolution to seize the murderer, who remained on board (though his captain). He pretended innocence; and when brought by warrant before Mr. Mayor, and other of the city magistrates, publicly declared, he did not then know that his brother was murdered, and went so far as to deny his having had any hand in either the seizing, detaining, or murdering him. But, gentlemen, if my instructions do not mislead me, we shall fix the thing at least as strongly upon Mr. Goodere as Mahony, and more strongly upon them both than I am willing to open it. We shall therefore call our witnesses, and, upon the whole of the evidence on both sides, appeal to your judgments, and to your consciences, whether both the prisoners, by the parts they bore in this hor-

rid action, have not forfeited their lives to the justice of their country as accomplices in guilt, and principals in the murder of the unfortunate Sir John Dineley Goodere.

From the evidence, which fully bore out Mr. Vernon's address, and which underwent little or no cross examination on the part of the prisoners, we take the following account of the actual murder.

Theodore Court, Master of the ship, was sworn.

Mr. *Vernon*. Will you tell Mr. Recorder and the jury what you know concerning the death of Sir John Dineley Goodere?

T. Court. On the 18th of January last, being Sunday, the barge went up to fetch Captain Goodere from Bristol, and about seven of the clock in the evening he came on board, and when he came into the gangway, says he, "How do you all do, gentlemen? Excuse me, gentlemen, from going the right way to-night, for I have brought an old mad fellow on board, and I must take care of him." I saw a gentleman with a black cap coming up the ship's side, and his groans shocked me, so that I could not help him; he looked much surprised, as a person used ill: as soon as he was on board, he was taken into custody, and carried by the captain's orders down to the cock-pit, and put into the purser's cabin, and a sentinel ordered upon him; and I saw him no more at that time. Next morning I was told that the captain's brother was murdered, and that the captain had given Charles White and Mahony leave to go on shore.

Mr. *Recorder*. By whose directions was he put into the purser's cabin?

T. Court. The captain himself went down, and saw them put him in.

Mr. *Vernon*. Whereabout in the ship is the purser's cabin?

T. Court. In the cock-pit.

Mr. *Vernon*. Was it a place where gentlemen who came on board commonly lay?

T. Court. No, nobody had laid in it for a considerable time. The next morning the cooper met me, and said, "Here is fine doings to-night, Mr. Court!" "Why, what is the matter, said I?" "Why, said he, about three o'clock this morning they went down and murdered Sir John." The ship was in an uproar; the cooper said, if Mr. Perry (the lieutenant) did not secure the captain, he would write to the board: we had several consultations in the ship about it. The captain sent for me to breakfast with him: I accepted of his invitation: I can't say but he behaved with a very good name to all the people on board. About ten o'clock Mr. Perry, myself, and the other officers, with the cooper, consulted about securing the captain. Mr. Perry cautioned us not to be too hot; for,

said he, "if we secure the captain before we know Sir John is dead, I shall be broke, and you too." We sent for the carpenter, and desired him to go down and open the cabin door, the sentinel who stood there having said it was locked; the carpenter went down, opened the cabin door, and came up, and said Sir John was murdered; and that he lay on his left side, with his leg up crooked. I told them, gentlemen, there is nothing to be done before the coroner comes; and therefore we must not touch him: whereupon the door was ordered to be fastened up: we then consulted how to take the captain, and a method was agreed on for that purpose. And as soon as the captain was taken, he declared he was innocent of it, that he knew not that his brother was murdered. When the coroner came, I saw the deceased, and my heart ached for him.

Mr. *Recorder*. Who was it put the sentinel upon Sir John?

T. Court. The captain ordered it to be done.

Mr. *Vernon*. Is it usual to place a sentinel at the purser's cabin door?

T. Court. No, it is not; unless there be somebody there under confinement.

Mr. *Vernon*. Is there any other cabin near the purser's?

T. Court. Yes, there is the slop-room just by; there the cooper and his wife lay that night: there is just a little partition of about half-inch deal, parting the slop-room from the place where Sir John lay confined.

Mr. *Vernon*. Pray, will you tell us whether any, and what discourse passed between Mr. Goodere and you, about sailing; and when it was?

T. Court. Sir, in the morning he asked me, "Will the wind serve to sail?" He said, he had another pressing letter from the lords of the admiralty to sail as soon as possible. I told him that the wind was west-south-west, and that we could not go out to sea; for no pilot would take charge of the ship, I believed. And as this is a harbour where a pilot is allowed, I don't pass for this place; otherwise I must have observed his orders.

Mr. *Vernon*. Did he acquaint you how far, or to what part, he would have you sail?

T. Court. Yes, he said, if he got no further than the Holmes, he did not care; and asked me if it was safe riding there. I told him it was not; for it was foul ground for such a ship as ours.

Edward Jones was then sworn.

Mr. *Vernon*. Mr. Jones, I think you are the cooper of the ship Ruby?

Jones. Yes, Sir.

Mr. *Vernon*. Were you on board upon Sunday the 18th January last?

Jones. Yes, Sir, I was.

Mr. *Vernon.* In what cabin did you lie that night?

Jones. I had no cabin, but I made bold to lie in the slop-room that night, having my wife on board.

Mr. *Vernon.* Pray what is that you call the slop-room?

Jones. It is like a cabin.

Mr. *Vernon.* How near is the slop-room to the purser's cabin?

Jones. Nothing but a thin deal partition parts it from the purser's cabin.

Mr. *Vernon.* Will you relate to Mr. Recorder and the jury, what you know about the murder of Mr. Goodere's brother: tell the whole you know concerning it.

Jones. About Wednesday or Thursday before this happened, the captain said to me, "Cooper, get this purser's cabin cleaned out, for he said he expected a gentleman shortly to come on board." I cleaned it out; and on Sunday evening the gentleman came on board, when the people on deck cried, "Cooper, shew a light." I brought a light, saw the captain going down the cock-pit ladder, the gentleman was hauled down: he complained of a pain in his thigh by their hauling him on board. The captain asked him, if he would have a dram? He said No; for he had drank nothing but water for two years. The captain ordered Mahony a dram; he drank it: he also ordered one Jack Lee to put two bolts on the purser's cabin-door. The gentleman walked to-and-fro the purser's cabin while they were nailing the bolts on. He wanted to speak with one of the officers. The carpenter told him he was the carpenter. Says the gentleman, "Do you understand what my brother Sam is going to do with me?" And said, His brother had brought him on board to murder him that night. The carpenter said, He hoped not, but what was done was for his good. The captain said, They must not mind what his brother said, for he had been mad for a twelve-month past. And the captain went up again, and went into the doctor's room. I went to bed about eight o'clock, and about two or three o'clock my wife waked me. She said, "Don't you hear the noise that is made by the gentleman? I believe they are killing him." I then heard him kick, and cry out, "Here are twenty guineas, take it; don't murder me; Must I die! must I die! O my life!" and gave several kecks with his throat, and then he was still. I got up in my bed upon my knees; I saw a light glimmering in at the crack, and saw that same man, Mahony, with a candle in his hand. The gentleman was lying on one side. Charles White was there, and he put out his hand to pull the gentleman upright. I heard Mahony

cry out, "Damn ye, let us get his watch out;" but White said he could not get at it. I could not see his pockets. White laid hold of him, went to tumbling him up to get out his money, unbuttoned his breeches to get out his watch; I saw him lay hold of the chain; White gave Mahony the watch, who put it in his pocket; and White put his hand into one of the gentleman's pockets, and cursed that there was nothing but silver: but he put his hand in the other pocket, and there he found gold. White was going to give Mahony the gold: "Damn ye," says Mahony, "keep it till by-and-by."

Mr. *Recorder*. In what posture did Sir John lie at that time?

Jones. He lay in a very uneasy manner, with one leg up; and when they moved him, he still remained so; which gave me a suspicion that he was dead. White put his hand in another pocket, took out nothing but a piece of paper, was going to read it. "Damn ye," said Mahony, "don't stand to read it." I saw a person's hand on the throat of this gentleman, and heard the person say, "'Tis done, and well done."

Mr. *Recorder*. Was that a third person's hand, or the hand of Mahony or White?

Jones. I cannot say whether it was a third person's hand or not. I saw but two persons in the cabin, I did not see the person, for it was done in a moment. I can't swear I saw any more than two persons in the cabin.

Mr. *Recorder*. Did you take notice of the hand that was laid on Sir John's throat?

Jones. I did.

Mr. *Recorder*. Did it appear to you like the hand of a common sailor?

Jones. No; it seemed whiter.

Mr. *Vernon*. You have seen two hands held up at the bar. I would ask you to which of them it was most like in colour?

Jones. I have often seen Mahony's and White's hands, and I thought the hand was whiter than either of theirs; and I think it was neither of their hands by the colour of it.

Mr. *Recorder*. Was Sir John on the floor, or on the bed?

Jones. On the bed; but there were no sheets: it was a flock-bed, and nobody had lain there a great while.

Mr. *Vernon*. How long did the cries and noise which you heard continue?

Jones. Not a great while: he cried like a person going out of the world, very low. At my hearing it, I would have got out in the mean

time, but my wife desired me not to go, for she was afraid there was somebody at the door that would kill me.

Mr. *Vernon*. What more do you know concerning this matter, or of Mahony and White's being afterwards put on shore?

Jones. I heard some talking that the yawl was to go to shore about four of the clock in the morning, and some of us were called up, and I importuned my wife to let me go out. I called, and asked who is sentinel? Duncan Buchannan answered, "It is I." "Oh," says I, "is it you?" I then thought myself safe. I jumped out in my shirt, went to him; says I, "There have been a devilish noise to-night in the cabin, Duncan; do you know any thing of the matter? They have certainly killed the gentleman, what shall we do?" I went to the cabin-door where the doctor's mate lodged, asked him if he had heard any thing to-night? "I heard a great noise," said he. "I believe," said I, "they have killed that gentleman." He said he believed so too. I drew aside the scuttle that looked into the purser's cabin from the steward's room, and cried, "Sir, if you are alive, speak." He did not speak. I took a long stick, and endeavoured to move him, but found he was dead. I told the doctor's mate, that I thought he was the proper person to relate the matter to the officer, but he did not care to do it then. "If you will not, I will," said I. I went up to the lieutenant and desired him to come out of his cabin to me. "What is the matter?" said he, I told him I believed there had been murder committed in the cock-pit, upon the gentleman who was brought on board last night. "Oh! don't say so," says the lieutenant. In that interim, whilst we were talking about it, Mr. Marsh the midshipman came, and said, that there was an order to carry White and Mahony on shore. I then swore they should not go on shore, for there was murder committed. The lieutenant said, "Pray be easy, it can't be so; I don't believe the captain would do any such thing." That gentleman there, Mr. Marsh, went to ask the captain, if Mahony and White must be put on shore? And Mr. Marsh returned again, and said, that the captain said they should. I then said, it is certainly true that the gentlemen is murdered between them. I did not see Mahony and White that morning, because they were put on shore. I told the lieutenant, that if he would not take care of the matter, I would write up to the Admiralty, and to the mayor of Bristol. The lieutenant wanted the captain to drink a glass of wine; the captain would not come out of his cabin: then the lieutenant went in first; I followed him. I told the captain, that my chest had been broke open, and I desired justice might be done. Then I seized him, and several others came to my assistance.

The following was the confession of the prisoner Mahony :—

City and county of Bristol, to wit. The voluntary Examination and Confession of Matthew Mahony, a native of Ireland, aged about twenty-one years. This examinant confesseth and saith, That about sixteen or seventeen days ago, and several times since, he was desired by Mr. Goodere captain of the Ruby man of war, now lying at King-road, in the county of the city of Bristol, to seize his, the captain's, brother, Sir John Dineley Goodere, Bart., and bring him on board the man of war; and that on Tuesday last, this examinant, and the crew belonging to the man of war's barge, and Edward Mac-Daniel, John Mac-Graree, and William Hammon, privateer's men, were placed by the captain at the White-Hart ale-house, opposite St. Augustine's church, in order to seize Sir John Dineley Goodere that day; but it so happened the captain forbad them to do it then. And that on Sunday last, this examinant, the barge's crew, or the greatest part of them, and George Best, cockstern of the barge, Edward Mac-Daniel, John Mac-Graree, William Hammon, and one Charles Bryer, privateer's men as aforesaid, were again placed at the White Hart aforesaid, to seize Sir John Dineley Goodere, and waited there for some time; and he coming out of Mr. Jarrit Smith's house, and coming under St. Augustine's church-yard wall, this examinant and his comrades pursued him, and near the pump there they came up with him, and told him there was a gentleman wanted to speak with him; and he asking where the gentleman was, was answered a little way off, and he went quietly a little way; but no one appearing, he resisted and refused to go; whereupon this examinant and comrades sometimes forcibly hauled and pushed, and at other times carried him over St. Augustine's butts, Captain Day's rope-walk, and along the road to the Hot-well, (Captain Goodere being sometimes a little behind, and sometimes amongst the crowd all the way) till they came to the slip where the barge lay. But Sir John was very unwilling to go, made the utmost resistance, and cried out murder a great many times; and when he was put into the barge, called out and desired somebody would go to Mr. Jarrit Smith, and tell him of his ill usage, and that his name was Sir John Dineley; whereupon the captain clapt his hand on Sir John's mouth to stop his speaking, and told him not to make such a noise, he had got him out of the lion's mouth (meaning the lawyer's hands) and would take care he should not spend his estate; and bid the barge-men row away, which they did; and in their passage to the man of war, the two brothers bickered all the way; But when they came to the man of war, Sir John went on

board as well as he could, and the captain took him down into the purser's cabin, and staid a little time with him, and treated him with a dram of rum, and then left him for a considerable time; and in the interim sent for this examinant into his, the captain's cabin, and there told this examinant he must murder his brother, for that he was mad, and should not live till four o'clock in the morning. And this examinant reasoning with him, and telling him he would not be concerned, and that he thought he had brought him there with intent only to bring him to reason, and take care that he should not spend his estate in law, and to have a perfect reconciliation: but the captain still insisting, that as this examinant had taken him, he should do it; and this examinant then saying he was not able to do it of himself, the captain replied, if this examinant could get nobody else, he and this examinant must do it themselves. And then ordered him to call one Elisha Cole; and he being too drunk to undertake such an affair, bid this examinant call one Charles White, a very stout lusty fellow, and the captain gave him a dram, and bid him sit down, and soon gave other drams, and asked him if he could fight, and told him, "Here is a madman, he must be murdered, and thou shalt have a handsome reward." And this examinant, Charles White, and the captain, being all agreed to murder Sir John Dineley Goodere, the captain then proposed the method, and produced a piece of half-inch rope about nine foot long, and Charles White having made a noose in the rope, the captain said to this examinant and Charles White, "You must strangle him with this rope," and at the same time gave the handkerchief now produced, that in case he made a noise, to stop his mouth; and said, "I will stand sentinel over the door whilst you do it;" and accordingly instantly went out of his own cabin, and turned the sentinel from the purser's cabin door, and let this examinant and White into the purser's cabin, where Sir John Dineley Goodere was lying in his clothes on a bed: The captain having pulled to the door, and standing sentinel himself, White first strangled Sir John with his hands, and then put the rope about Sir John's neck, and hauled it tight, and Sir John struggled, and endeavoured to cry out, but could not. And this examinant confesses, that whilst White was strangling Sir John, this examinant took care to keep him on the bed, and when one end of the rope was loose, this examinant drew and held it tight; and thus each bore a part till Sir John was dead; and they having rifled the deceased of his watch and money, knocked at the door to be let out; and the captain called out, "Have you done?" they replied, "Yes." He opened the door, and asked again, "Is he dead?"

And being answered in the affirmative, and having a light, swore, by God, he would be sure he was dead; and then went in himself, and returning, locked the door, and put the key in his pocket, and they all went together to the captain's cabin again, and there this examinant gave the captain Sir John's watch, and the captain gave this examinant his own watch in lieu of it; and then the captain gave them both some money, and White afterwards gave this examinant eight guineas as part of the money he took out of the deceased's pocket, and then the captain ordered them to be put on shore in his own boat. And further this examinant confesses and saith, That before and after the murder was committed, the captain, Charles White, and this examinant, consulted what to do with the corpse; and the captain proposed to keep it two or three days in the ship, and as he expected to go to sea, would sew it up in a hammock, or something else, and there throw it overboard: And that before this examinant and his comrades were sent to seize Sir John, as is before set forth, they were ordered by Captain Goodere, that, if they met with any resistance, they should repel force by force, and were prepared with short heavy sticks or bludgeons for that purpose.

MATTHEW MAHONY.

Mr. *Recorder* (speaking to the jury.) "Gentlemen, you are to take notice, that this confession is evidence against the prisoner Mahony alone, and so far only ought you to regard it. It is no evidence, nor ought you to lay any stress upon it, as against the prisoner Goodere."

The two prisoners made scarcely any defence. Captain Goodere feebly endeavoured to prove that his brother was a madman, and stated that he, in consequence, brought him on board for security, and that he was not present at the murder or had any share in it. The witnesses, however, whom he brought to his character, with some others called by the crown, completely refuted the assertion of his brother being insane. As to the evidence of a Mrs. Gethins, alluded to by the Recorder in passing sentence, it went rather against the prisoner. All that Mahony said was that he was a poor, pressed servant, that he was drunk when he made his confession, and that he was frightened out of his wits.

Both prisoners were found guilty; Charles White, the participator in the crime, was tried separately and convicted the following day, the 27th March. The day after that, the 28th March, 1741, the three miserable men were brought up for sentence, when Mr. Recorder Foster thus addressed them in passing judgment.

Mr. *Recorder*. Samuel Goodere, Matthew Mahony, and Charles White, you have been all convicted, upon very full evidence, of one of the

greatest crimes human nature is capable of; deliberate and wilful murder. A crime, which in all ages, and through all nations, hath been had in the highest detestation. For however mankind have differed in other matters, they have been in one sentiment concerning this crime and the demerits of it; as if they had been all witnesses to the promulgation of the precept, "Whoever sheddeth man's blood, by man shall his blood be shed."

But this crime, great as it is, is capable of several aggravations arising from the circumstances which attend it.

To lay violent hands upon a person who never gave his murderer the least offence, whom perhaps he never saw till the moment he was marked out for execution; and to do this for hire, shows a mind lost, I fear, to all the impressions of humanity.

But what then is the case of one, who can procure all this mischief, and involve others in this guilt; especially if the person to whom the violence is offered is near to him by the ties of blood or friendship?

It is true, murders of this kind are not very frequent; and less so in this nation than in any other. But in the case in which three of you are concerned, they all concur.

A gentleman of distinction is murdered by persons, who, in a manner, were strangers to his face, and his only brother aiding and abetting the murder. I may say thus much, because your country hath upon full evidence found it so.

I will carry these reflections no farther: I choose to leave that part to your own serious consideration.

I hope I need not persuade you to employ the time you have to live, in making your peace with God: I hope, I say, that a sense of your own condition hath already put you upon that work. And pray do not suffer yourselves to be diverted from it by the hope or expectation of mercy from the crown. His majesty's disposition to mercy is great; but his love of justice, and his love to his people are still greater. And because I would not mislead you, nor have you deceive yourselves, in a case of this importance, I think it my duty to deal freely with you.

I do not see what room any of you have to expect mercy.

You who have been the immediate actors in this affair. What have you pleaded in mitigation of your crime? One says he is a poor pressed servant; and the other, that he was drunk when the fact was committed. Neither of those excuses can avail you. You both undertook the murder for hire, rifled the gentleman's pockets, and shared the plunder between you.

You had, perhaps, no design upon the gentleman's life, till near the

time of execution. This is no excuse. It shews you were ready to shed innocent blood at the first call—that you yielded to the first temptation. And if drunkenness could be admitted as an excuse for crimes of this nature, this would be no world then of virtue and sobriety.

You, Sir, who have been the principal actor in this affair, what have you offered for yourself?

You admit, that you employed a number of people to seize your brother, here in the heart of the city, and in the face of the sun, and to carry him on board the ship of which you had then the command. This is too evident to be denied, and for that reason only, I fear it is admitted.

To give some colour to this unparalleled outrage, you say that your brother was distracted, and that you took him on board in order to put him under confinement. Admitting that your brother was distracted, was the place you carried him to, or the hands into which you committed him, or the treatment which he met with from them before he was got aboard the barge, at all proper for his case, or fit for a brother to think of?

You called Mrs. Gethins to prove that Mahony was to have had 5*l.* a month for looking after him at her house. She remembers nothing of Mahony. But, had that been proved, could it at all avail you to say, that for three weeks before the murder was committed, you intended to have confined him under the care of the very man who now appears to have murdered him.

Indeed, you have denied all concern in the murder, or the least knowledge of it. But it hath been proved by three witnesses, that you were in the cock-pit while the murder was committing, and might have heard the noise and struggle in the cabin, the cry of murder, and your brother's dying groans, as well as they did.

Nay, two of them are positive that you stood sentinel at the door, with a drawn cutlass in your hand, while the fact was committing. One of them says that you delivered a candle into the cabin, after the cry of murder ceased; and that you, soon after, locked the door, and took the key with you. And it is agreed on all hands, that when the door was opened the next morning, your brother was found there murdered.

Those facts, with other circumstances, are strong and pregnant proofs of your concern in the murder; unless the credit of the witnesses could be impeached, which you have not attempted to do.

It was charged as a circumstance against you, that after the fact was committed, Mahony and White were sent ashore by you. This likewise

you denied. But it came out of the mouth of a witness called by yourself, that they went up in the yawl by leave from you.

I have nothing more to do, before I proceed to that which the duty of my place obliges me to, than to exhort you all to make your peace with God by a serious and hearty repentance. His mercy is infinite, and to that we must leave you.

At the same Court, Charles Bryan, Edward M'Daniel, and William Hammon, were indicted, tried, and convicted, for a misdemeanor, in forcibly assisting and seizing Sir John in the parish of St. Augustine, in the said city and county, and carrying him on board the barge belonging to the Ruby man of war; and were fined 40*s.* each, to be imprisoned for one year, and then each to give security for his good behaviour for one year more.

On Wednesday, the 15th of April following, the prisoners Matthew Mahony, Samuel Goodere, and Charles White, were executed at Bristol, according to the sentence pronounced against them. They all confessed the fact. The body of Mahony was hung in chains near the place where the horrid fact was committed.

The two sons of Sir Samuel Goodere, the murderer, successively inherited the baronetcy: the elder son, Sir Edward Dineley Goodere, died unmarried, a lunatic, in 1761: the younger son, Sir John Dineley Goodere, succeeded his brother, and at his decease, also unmarried, in 1776, the baronetcy of Goodere, of such fearful fame from the event here related, became extinct.

John Foote, as we have above stated, became heir to his unfortunate uncle, and assumed the surname of Dineley; but Dame Mary Dineley Goodere, the widow of the murdered Sir John, held the Charleton estate in dower, and married secondly, William Rayner, a printer in White Friars, London, who, being thus in possession, partly by his marriage and partly by purchase from Mr. Foote Dineley, became seised of the whole in fee, and sold it to Joseph Biddle, Esq. of Evesham, from whose executors it was purchased in 1774, by Messrs. Beesly, Locket, Lilly, and Bevington, of Worcester, in partnership.

Samuel Foote, the dramatist, (Sir John Goodere's nephew) was greatly affected by the frightful tragedy of his relative's death: in conversation he seldom alluded to it, and never without the deepest emotion. One strange anecdote respecting it is related of him:

On the night the murder was committed, Foote arrived at his father's house at Truro, and described himself as having been kept awake for some time by the softest and sweetest strains of music he had ever

heard. At first, he imagined that it was a serenade got up by some of the family, by way of a welcome home; but, in looking out of his windows could see no trace of the musicians, so was compelled to come to the conclusion that the sounds were the mere offspring of his imagination. When, however, he learned shortly afterwards that the catastrophe of the murder had occurred on the same night, and at the same hour when he had been greeted by the mysterious melody, he became, says one of his biographers, persuaded that it was a supernatural warning, and retained this impression to the last moment of his existence. Yet the man who was thus strongly susceptible of superstitious influences, and who could mistake a singing in the head, occasioned, possibly, by convivial indulgence, for a hint direct from heaven, was the same who overwhelmed Johnson with ridicule for believing in the Cock Lane ghost.

THE TRIAL OF LORD BYRON FOR KILLING WILLIAM CHAWORTH, ESQ. IN A DUEL.

THIS celebrated investigation presents one of the most deplorable instances on record of the fatal results of a too heated argument over a dinner table. The dispute was between Lord Byron, (the grand-uncle and immediate predecessor in the title of the great poet,) and Mr. Chaworth, and arose upon a mere trivial subject; yet in little more than one hour afterwards the latter unfortunate gentleman received a mortal wound from his opponent. The facts of this melancholy affair fully appear in the trial itself. A previous personal account however of each of the parties concerned may be deemed interesting.

The noble prisoner was eldest son of William, fourth Lord Byron, by Frances, his third wife, daughter of William, Lord Berkeley, of Stratton, and grandson of the third Lord Byron, by Elizabeth, his wife, daughter of John, Viscount Chaworth. In 1736, at the early age of fourteen, he inherited the family honours, and about the same time entered the Royal Navy, in which he soon attained the rank of Lieutenant, his first appointment in that capacity to H.M.S. the Falkland, bearing date in the May of 1738. We subsequently find him serving as Lieutenant of the Victory, but he had the good fortune to leave that ship just before she was lost. After this period, his Lordship does not appear to have returned to the naval profession. In 1763, two years before the fatal encounter with Mr. Chaworth, he received the influential appointment of Master of the King's buckhounds.

Mr. Chaworth was the descendant of one of the oldest Houses in England, a branch of which obtained an Irish peerage. He resided at Annesley in Nottinghamshire, and possessed an extensive estate in that county. His grand-niece, the eventual heiress of the family—

> "——the solitary scion left
> Of a time honoured race."

was Mary Chaworth—the object of the early, unrequited love of Lord Byron, the poet. Singularly enough, there was the same degree of relationship between that nobleman and the Lord Byron who killed Mr. Chaworth, as existed between the latter unfortunate gentleman and Miss Chaworth. The bard's brilliant career, and the young lady's inspiration of his muse lend peculiar interest to the history of the heiress of Annesley. In August 1805, she was married to John Musters, Esq. and died at Wiverton Hall, in February 1832, in consequence, it is believed, of the alarm and danger to which she had been exposed during the sack of Colwick Hall, by a party of rioters from Nottingham. The illfated lady had been in a feeble state of health for several years, and she and her daughter were obliged to take shelter from the violence of the mob in a shrubbery, where partly from cold, partly from terror, her constitution sustained a shock which it wanted vigour to resist.

The trial took place before the House of Peers in Westminster Hall, on the 16th and 17th April, 1765. The entry of the peers, dignitaries, and officials into the court is here given, for once, in illustration of the mode of precedence adopted on such an occasion.

It is thus reported. About eleven of the clock the Lords came from their own house into the court erected in Westminster Hall, for the trial of William Lord Byron, in the manner following :—

The lord high steward's gentlemen attendants, two and two.

The clerk's assistant to the House of Lords, and the clerk of the parliament.

Clerk of the crown in Chancery, bearing the king's commission to the lord high steward, and the clerk of the crown in the King's-bench.

The masters in chancery, two and two.

The judges, two and two.

The peers eldest sons, two and two.

Peers minors, two and two

Chester and Somerset heralds.

Four serjeants at arms, with their maces two and two.

The yeoman usher of the House.

The barons, two and two, beginning with the youngest baron.

The bishops, two and two.

The viscounts and other peers, two and two.

The lord privy seal and lord president.

The archbishop of York and the archbishop of Canterbury.

Four serjeants at arms with their maces, two and two.

The serjeant at arms attending the great seal, and purse bearer.

Then Garter king at arms, and the gentleman usher of the Black Rod carrying the white staff before the Lord High Steward.

Robert, Earl of Northington, Chancellor of Great-Britain, Lord High Steward, alone, his train borne.

His Royal Highness the Duke of Gloucester, his train borne.

His Royal Highness the Duke of York, his train borne.

The Lords being placed in their proper seats, and the Lord High Steward upon the woolpack, the House was resumed.

The clerk of the crown in Chancery, having his majesty's commission to the Lord High Steward in his hand, and the clerk of the crown in the King's-bench, standing before the clerk's table with their faces towards the state, made three reverences; the first at the table, the second in the midway, and the third near the woolpack; then kneeled down; and the clerk of the crown in Chancery, on his knee, presented the commission to the Lord High Steward, who delivered the same to the clerk of the crown in the King's-bench to read: then rising, they made three reverences, and returned to the table. And then proclamation was made for silence, in this manner:

Serjeant at Arms. Oyez! Oyez! Oyez! Our sovereign lord the king strictly charges and commands all manner of persons to keep silence, upon pain of imprisonment.

Then the Lord High Steward stood up, and spoke to the Peers.

Lord High Steward. His Majesty's commission is about to be read; your lordships are desired to attend to it in the usual manner: and all others are likewise to stand up uncovered, while the commission is reading.

The commission was then read, and the prisoner was brought to the bar in the following manner:—

Clerk of the Crown. Serjeant at Arms, make proclamation for the Lieutenant of the Tower to bring his prisoner to the bar.

Serjeant at Arms. Oyez! Oyez! Oyez! Lieutenant of the Tower of London, bring forth William, Lord Byron, your prisoner, to the bar, pursuant to the order of the House of Lords.

Then William, Lord Byron was brought to the bar by the deputy-governor of the Tower, having the axe carried before him by the gentleman-gaoler, who stood with it on the left hand of the prisoner, with the edge turned from him. The prisoner when he approached the bar, made three reverences, and then fell upon his knees at the bar.

L. H. S. Your lordship may rise.

was M
Byro
tion
Ch
Ch
of
l

146

Then the prisoner rose up, and bowed to his grace the Lord High Steward, and to the House of Peers; which compliment was returned him by his grace, and the Lords.

Lord Byron pleaded not guilty and the trial proceeded. The narrative may be best taken from the opening speech of the Attorney General, Sir Fletcher Norton.

Mr. Attorney General. "May it please your lordships, I am likewise of counsel for this prosecution; and by the indictment which has been opened, your lordships have heard that the noble prisoner at the bar is charged with one of the highest offences that human nature is capable of committing, nothing less than shedding the blood of a fellow-creature. My lords, I need not enlarge upon this subject, the crime itself is incapable of aggravation; it is my province to lay before your lordships the state of the evidence which will be produced in support of the charge; and as it is not my duty, so neither is it my inclination to exaggerate any thing upon this occasion; but public justice requires, that the whole proof should be brought fully and fairly before your lordships.

I hope it will neither be thought impertinent or improper for me to make some general observations upon the law, which may respect the offence now under consideration; the utility and application of which your lordships will see in the course of the evidence.

My lords, as it will be proved beyond a doubt, in the course of these proceedings, that the deceased fell by the hand of the noble prisoner at the bar, I shall therefore take that fact for granted; and if so, every presumption in law arises against him: and it will be incumbent upon the prisoner to exculpate himself in the best manner he is able; for though every homicide is not murder, yet every homicide, *primâ facie*, is so, and it is required of the prisoner to make out, that the fact of killing in this case was not committed under circumstances which will make it murder: and I admit the law will allow the prisoner to show the homicide justifiable, excusable, or done under such circumstances of extenuation, as to induce your lordships to think it was not done with malice aforethought, and then it will be manslaughter, and not murder.

It is clear in point of law, if there be a quarrel, and the parties afterwards have time to cool, and after that they fight, and one falls, he who survives has been guilty of murder; or if the manner in which the fact was done bespeaks a depravity of mind, and a wickedness of intention, that will make it murder.

My lords, as this case must depend upon a very nice and strict enquiry into all the circumstances that accompanied the fact, in order to mark

the offence with one or other of these denominations (for an offence manslaughter is in the eye of the law), so I am persuaded your lordships will attend carefully to the evidence which may be produced; and I am convinced we shall hear such a judgment from your lordships, as, under all the circumstances of the case, justice shall require: and this must afford matter of the greatest consolation to the noble prisoner at the bar (if he is innocent,) because your lordships' understanding cannot be deceived, nor your judgment biassed: but, on the other hand, if his lordship is guilty of the offence laid to his charge, he must know that no art, no subterfuge, no management will avail him; innocence, and innocence alone, can be his support and defence.

Having said this, give me leave to observe to your lordships the happiness of this constitution under so gracious a prince as his present majesty, who aims at no other rule of government than that which the law prescribes, and has no other wish than that in all cases, and over all persons indiscriminately, the law should be impartially administered; and when the laws are thus administered, and allowed their due force, such is the excellency of the English constitution, that the meanest subject is not beneath their protection, nor the highest beyond their reach. Thus to be governed is the full perfection of civil liberty.

On the 26th of January last, the noble prisoner at the bar, the deceased, and many more gentlemen of rank and fortune of the county of Nottingham met, as they usually did once a week, to dine together at the Star-and-Garter tavern, in Pall-mall: in the course of the dinner there was nothing but good-humour. About seven at night the conversation turned upon the subject of game: upon this occasion, Mr. Chaworth had something of a dispute with the gentleman who sat next him, about the best method of preserving the game. The prisoner at the bar interfered upon that subject, and said in his opinion, the way to have game was to take no care of it. Mr. Chaworth happened to be of a different opinion, and thought the best way was to be strict with poachers, and thereby preserve the game: this drew on some altercation: Mr. Chaworth added, that he believed there was not a hare in that part of the country, but what was preserved by himself or Sir Charles Sedley; upon which Lord Byron offered a wager of 100*l.* that he had more game in a manor or manors of his, than Mr. Chaworth had upon any that belonged to him. Your lordships will find a little difference in the account given by the witnesses, touching the terms of the wager; but you will have them from the witnesses themselves, who are all gentlemen of character, and as they have most of them been already examined be-

fore the coroner, and again before the grand jury, they did not choose to be examined by those concerned in the prosecution; but said, when they were called and examined before your lordships, they should speak the truth, as doubtless they will; and I only mention this circumstance as an excuse for myself, if I should not happen to open the evidence exactly as it may come out from the witnesses.

My lords, Mr. Chaworth having said he was willing to accept the wager, said it would be proper to make a memorandum of it, and called for pen, ink, and paper. After that, it happened that Sir Charles Sedley's manors were mentioned; upon which the noble prisoner at the bar said, with some degree of heat, Sir Charles Sedley's manors! where are his manors? To which Mr. Chaworth replied, Why Hocknel and Nuttall: his lordship then said, I know no manors of Sir Charles Sedley's; to which Mr. Chaworth replied, Sir Charles Sedley has a manor, the manor of Nuttall is his, and one of his ancestors bought it out of my family; and if your lordship wants any further information about his manors, Sir Charles Sedley lives in Dean-street, and your lordship knows where to find me in Berkley-row.

My lords, whether this was a real dispute between Lord Byron and Mr. Chaworth, about Sir Charles Sedley's manors, or whether it was used only as a means of affronting and quarrelling with each other, it is impossible for me to say; however, after this quarrel, the parties stayed in company together for a considerable time, I believe near an hour, during which time, both the noble prisoner at the bar and Mr. Chaworth entered into conversation with the company that sat next to them upon indifferent subjects, and particularly Lord Byron was observed to be in good humour.

The company thought there was an end of the quarrel, and that no more would be heard of it. About eight, an hour after the first quarrel, Mr. Chaworth went first out of the room, and it happened a gentleman went after him to the door, and he asked the gentleman, whether he had observed the dispute between him and Lord Byron? He said, he had in part; upon which Mr. Chaworth asked him, if he thought he had gone far enough? To which Mr. Donston (for that was the gentleman's name) said, he thought he had gone too far; it was a silly business, and neither of them should think of it again.

Mr. Chaworth going down stairs, Mr. Donston returned into the room, and, as he opened the door, he met Lord Byron coming out. I must now state to your lordships the evidence as it arose from the declarations of the deceased, as well as the facts, which will be proved; for, both

being legal evidence, they just stand under the same predicament, and the evidence being thus put, will come in proper order in point of time. The prisoner at the bar saw the deceased upon the stairs, and said to him, Sir, I want to speak with you. They then went down one pair of stairs, and one or other of them called out, Waiter; which of them it was I am not instructed to say. Upon the waiter's coming, the noble prisoner at the bar asked him, whether either of these two rooms (pointing to them) were empty? The waiter opened one of the doors, and went in, with a poor little tallow candle, which was all the light, except a dull fire, that was in the room: the waiter set the candle upon the table, and Lord Byron and Mr. Chaworth went into the room. When they were there, the prisoner asked Mr. Chaworth, whether he was to have recourse to Sir Charles Sedley to account for the business of the game, or to him? The deceased said, To me, my lord; and if you have any thing to say, it would be best to shut the door, lest we should be overheard. Mr. Chaworth went to shut the door, and turning from the door he saw the noble prisoner just behind him, with his sword half-drawn, or nigh drawn, and at that instant Lord Byron called out—Draw! The business was soon done, Mr. Chaworth finding his lordship in such a situation, had nothing left for it but to draw as quickly as he could: by his own account he has told, he gave the noble prisoner the first thrust, and entangled his sword in his waistcoat, and thought he had wounded him; after that Lord Byron shortened his sword, and stabbed Mr. Chaworth.

There was another circumstance; the bell rung; but by whom it was rung I know not. The waiter came up, and seeing the situation of the two gentlemen, was not a little frightened. He ran out again, and sent up the master of the tavern, who will tell your lordships how he found them. I think they were grasped in each other's arms, and Mr. Chaworth had his sword in his left-hand, and the noble prisoner at the bar had his in his right-hand. The deceased delivered his readily, but Lord Byron quitted his with reluctance. One of them, I believe Lord Byron, ordered him to send for relief: upon this Mr. Hawkins the surgeon was soon sent for, and as soon came; but before this, an alarm was given in the room above stairs. The company came down; they saw the terrible situation of the unfortunate gentleman. He told them, and your lordships will hear, the manner in which it happened, pretty nearly as I have stated it, at least I hope substantially so. When Mr. Hawkins came, it did not require a person of his skill and penetration to find out that the wound was mortal, for the sword had gone in at one side and out at the

other. Mr. Hawkins ordered no doubt, what was proper, and had him conveyed home. Mr. Chaworth had sent messengers for the worthy gentleman, who is the prosecutor upon this occasion. When he came, seeing so near a friend and relation in the condition in which the deceased then appeared, he immediately inquired what had brought him into that terrible situation. His evidence will be material; for Mr. Chaworth told Mr. Levinz the whole transaction: and when the deceased related to him the circumstance, that Lord Byron had drawn, or nigh drawn, his sword, when the deceased was shutting the door, Mr. Levinz asked him, Was that fair, Billy? The deceased, who was one of the most benevolent, as well as one of the bravest of men, gave no answer to that question. Mr. Levinz followed him with some other questions, and the answers (which he will give you an account of) will amount in substance to this, That Mr. Chaworth did not think when Lord Byron carried him into the room, that he had any design of fighting him; but afterwards he thought he had got him to an advantage, and that was the reason of his fighting him.

My lords, beside this, the deceased having made his will, the person who attended him upon that occasion thought it proper that some questions should be asked him, even though the deceased was then in great agonies (for he died soon afterwards); and the same person wished, that the answers might be reduced into writing, which was accordingly done; and the paper will be produced to your lordships, and will speak for itself; and it will need no comment.

It states, that Mr. Chaworth said, the noble prisoner's sword was half drawn when he turned from the door; that, knowing his man, he immediately whipped out his own, and had the first lunge at his lordship, when Lord Byron shortened his sword, and run him through; and then said with an oath, I have as much courage as any man in England. This is the nature of the case in general; and I believe I have stated the evidence substantially, if not correctly true.

I cannot sit down without mentioning another circumstance, which further evinces his majesty's love of justice, and his inflexible resolution to do right, according to law, without favour or affection, however high and respectable the noble personage may be, who is concerned in this important cause. Your lordships all remember, upon another very solemn and melancholy occasion, as the event proved, the then noble prisoner* had killed a person of very inferior rank, who left neither a fortune nor relations equal to the expense of a prosecution of this sort.

* Earl Ferrers, *see post.*

His majesty from a love of justice, sustained the whole charge, and committed the care of that prosecution to his own servants. But in the present instance, the deceased having a large fortune, and the inheritor of it being both able and willing to carry on this prosecution, his majesty, from the same love of justice, and that there might not be the appearance of partiality to the noble prisoner at the bar, has left the prosecution, and the entire management, of it, in the hands of the private prosecutor, who, actuated by no motive of revenge, only hopes, that there will be a fair, but a strict and full enquiry for the blood of his deceased relation; being thoroughly satisfied that your lordships will hear with patience, deliberate with caution, and determine with wisdom, justice, and truth.

The evidence, with some slight and immaterial variation, supported this statement. We shall therefore only take from it the dying man's own account of the horrid transaction, which was related by one of the witnesses. This was William Levinz, Esq. who being sworn, answered thus.

Att. Gen. Mr. Levinz is uncle to the deceased Mr. Chaworth. Did you see Mr. Chaworth on the 26th of January last?—*Levinz.* I did, about ten at night or thereabouts.

Where did you first see him?—I first saw him at his own house.

That was after the misfortune?—It was after the misfortune.

Did he give you any account how that misfortune had happened?—He did.

What was that account?—As soon as I got into the house I went into his bed-chamber; he took me by the hand, and told me Lord Byron had given him a mortal wound; desired I would send for a lawyer as soon as possible to make a new will, saying he believed he should be dead before morning; upon which I came out into the outward room. There were Mr. Serjeant Hawkins, Mr. Adair, Mr. Willoughby, and Mr. Hewett. I told them that Mr. Chaworth had desired me to send for a lawyer, but I was so totally deprived of recollection, I could not remember where any one lived; upon which Mr. Hawkins told me, there was one Mr. Partington, who lived in that neighbourhood, that was a man of character, and that if I pleased he would send for him. Mr. Partington came, I believe in a quarter of an hour, As soon as he came, I introduced him to Mr. Chaworth, and I left him in the room to take his instructions. When the gentlemen were gone down stairs, and Mr. Partington had begun making the will in the next room, I went to Mr. Chaworth, and asked him how this unfortunate affair had happened?

He told me, that Lord Byron took him into a room; upon which Mr. Chaworth said, If we are to talk I had better shut the door, or else they may overhear what we say. Upon his shutting the door, the first thing he saw when he turned his head about, was Lord Byron's sword half drawn; upon which he drew his as quick as possible, and got the first pass at him; and finding his sword engaged in something, he thought it was my lord's body, and therefore wished to disarm him, and in endeavouring to close in for that purpose, my lord shortened his sword, or arm, I am not positive which, and gave him that mortal wound. From that time till the time the will was executed, which was about three in the morning, Mr. Chaworth's head was so full of his private affairs, that I cannot say I heard him mention the unfortunate affair, till after the will was executed, when I asked him, Has this been fair? But he made no answer that I could hear, but said he saw my lord's sword half out, and, knowing his man, he drew his sword as quick as he could: that he had the first pass at him, and then my lord wounded him, and after that he disarmed his lordship, when my lord swore he was as brave a man as any in England. He said twice to me, Good God! that I should be such a fool as to fight in the dark; for indeed there was very little light. He said he did not believe Lord Byron intended fighting when they went into the room; but seeing him up by the door, he believed he thought he had him at an advantage; and the first thing he saw, upon turning his head, was his lordship's sword half-drawn. He said he died as a man of honour, but he thought Lord Byron had done himself no good by it. I asked him several times in the night, how this affair begun above stairs? he always answered, It is a long story, and it is troublesome for me to talk. They will tell you; Mr. Donston will tell you. That is all I know of this unfortunate affair.

Lord Byron's defence was reduced by him into writing, and read by the clerk. It is a plain and honourable statement, and has decidedly the impress of truth upon it. It is as follows:—

"My lords; your lordships are now in full possession of the evidence against me, and, I am convinced, will weigh it with the wisdom and impartiality which have ever distinguished the Court of the Peers of Great Britain.

This consideration, my lords, affords me comfort and support, though oppressed under the heavy load of an accusation of murder, against which I am now required to speak in my own defence.

My inexperience in the nice distinctions of law, and in proceedings of

this nature, but ill qualify me for this task; and will furnish very ample occasion for the goodness and indulgence of your lordships.

The witnesses (as far as their knowledge and observation could lead them) have already sufficiently proved the accidental manner in which the greatest part of the transaction happened; and the innocence of my own intentions, through the whole of it, makes it difficult for me to select any particular passages which may more immediately demand your lordships' attention.

Let me presume, however, to lay before you my own narrative of the fact, according to the best of my recollection. It agrees in substance with great part of what has fallen from the witnesses, but it supplies some particulars which may possibly deserve weight and credit. In doing this, the respect which I owe to your lordships, as well as a tender concern for my own honour, will not suffer me to prevaricate, neither will I conceal or deny what is true.

After we had dined at the club, about seven o'clock, a discourse began concerning game, and Mr. Chaworth insisted, that strictness and severity were the only effectual methods with the country people.

I must confess that I was of a different opinion, being for gentler measures; and therefore observed, that such severity might only prompt them to do more mischief: and added such circumstances as I thought supported what I said.

This discourse lasted some time; and, during the whole of it, I was concerned to observe that the deceased gentleman, without any cause, treated me in a slighting and comtemptuous manner.

Towards the conclusion of it, he, with some heat, said, there would be no game in the country; and that I should not have a single hare on my estate, if it was not for the care taken by himself and Sir Charles Sedley, to preserve the game on their manors; and added, that he had more game on five acres than I had in all my manors. The proposal of a bet followed, but some of the gentlemen interfered, and no bet was made.

Mr. Chaworth again mentioned Sir Charles Sedley's manors, and his care of the game; upon which I happened to ask what manors of Sir Charles Sedley he meant; when he answered, Nuttall and Bulwell; to which I replied, I did not understand how that could be, for though I knew Nuttall was Sir Charles Sedley's, yet Bulwell park was mine.

Mr. Chaworth answered, that besides Bulwell park, there was the lordship of Bulwell town (a point, which I believe may formerly have been in dispute between Mr. Wentworth's family and mine, but has long

lain dormant), and that Sir Charles Sedley had a deputation for that lordship.

Upon which I made some insignificant observation on the uncertainty of deputations, as they are liable to be recalled at any time, or something to that purpose.

Whereupon to the best of my recollection, Mr. Chaworth replied in the following words: "Sir Charles Sedley, my lord, lives at Mr. Cooper's, in such a place, and I doubt not, will be ready to give your lordship satisfaction about his manors, if you have anything to say concerning them; and as to myself, you know where I live, and I shall be ready to answer your lordship whenever you will call upon me, if you have anything to say to me."

These words, so unexpected, of such an import, uttered and repeated in the manner they were, would not admit of any reply, but put an end to the discourse; so that nothing further passed between the deceased gentleman and myself at that time; but during the short stay I made afterwards, I might possibly have some very short conversation on indifferent matters with Mr. Molyneux, who was next me.

And here, I must observe, that as I sat at the lower corner on the one side, and Mr. Chaworth at the upper corner on the other side of a long table, at which ten people had dined, no private intimation for a future meeting, or other signs, could be given by either of us, without being perceived by all the rest of the company, to whose evidence I must refer, observing only that no such thing is pretended, or even suspected by any of the gentlemen who have been called upon.

Soon after this discourse was finished in the abrupt manner I have mentioned, the club-book was brought to Mr. Chaworth, who usually settled it, and did so on this occasion, though with some hurry and confusion, as Fynmore, the master of the tavern, has told your lordships.

The book being settled, and the reckoning paid by Mr. Chaworth and several of the company, I saw him go behind a screen in the room which entirely conceals the door, and I had every reason to conclude that he was gone.

I stayed some time to settle and discharge my reckoning, which might detain me near ten minutes, and then I took my hat, and left the company.

As I was going out of the room, I remember that somebody passed me behind the screen near the door, and believe it might be Mr. Donston, who (I think) says, he met me, but being in the shade, I could not

well distinguish him, so as to take particular notice or say anything to him.

When I opened the door, I saw Mr. Chaworth on the landing-place, near the upper step of the stairs, with his face towards the door, and his back to the stairs, not moving (as he appeared to me), but rather as if he waited for somebody coming out.

The landing-place is so narrow, that to go without the door of the room was unavoidably to pass near Mr. Chaworth, who immediately said, "Has your lordship any commands for me?" which he spake in a very particular and significant manner, and not (to my apprehension) as a question either of civility or respect.

I only answered, "I should be glad of an opportunity of speaking a few words to him." Mr. Chaworth replied, "That the stairs were not a proper place, and if I pleased, we would go into a room."

We then went down together to the landing-place of the one pair of stairs (for we dined up two pair of stairs), and there the waiter was called, and as it was repeated three or four times, it is most probable we both called him.

The waiter soon came with a candle, and being asked (I am sorry I cannot recollect who put the question) which of those rooms (meaning the two rooms on that floor) was empty, he threw open the door of one of them, and going in first, set his candle upon the table which stood towards the middle of the room, whilst we went to the fire.

He retired immediately, and shut the door after him.

I then said to Mr. Chaworth, as we still continued standing by the fire, "How am I to take those words you used above, as an intended affront from Sir Charles Sedley, or yourself?" Mr. Chaworth replied, "Your lordship may take them as you please, either as an affront or not, and I imagine this room is as fit a place as any other to decide the affair in."

Then turning round, he said, he would bolt the door to prevent any interruption or anybody interfering, or words to that effect. Accordingly he went to the door and fastened it. In the mean time, his attention being but too manifest by this action and his last expression, I went round on the further side of the table towards the most open part of the room, which your lordships have been informed by Fynmore, is about sixteen feet square, and the furniture did not leave a vacant space of more than twelve feet in length, and as I believe, five feet in breadth, where it was my unhappy lot to be obliged to engage.

Mr. Chaworth was now turned round from bolting the door, and as I

could not any longer continue in doubt of his intention, it was impossible for me in such a situation to avoid putting my hand to my sword, and I believe I might at the same time bid him draw, or use some other words of the like import, though I cannot now be certain of the expression.

Mr. Chaworth immediately drew his sword, and made a thrust at me, which I parried; he made a second, which also missed of its effect: and then finding myself with my back against the table, with great disadvantage of the light, I endeavoured to shift a little more to the right hand, which unavoidably brought us nearer to each other, and gave me an opportunity to perceive that the deceased gentleman was making a third pass at me. We both thrust at the same time, when I found Mr. Chaworth's sword against my ribs, having cut my waistcoat and shirt for upwards of eight inches; and I suppose it was then, that he received the unlucky wound, which I shall ever reflect upon with the utmost regret.

Mr. Chaworth paused, and said, "I am afraid I have killed you;" at the same time putting his left hand to his belly, which, on withdrawing it again, I could perceive was bloody.

I expressed the like apprehension on his account; and, Mr. Chaworth telling me that he was wounded, I said that I was sorry for it, and went to the bell near the fire, to ring it, in order to call for assistance, whilst the unfortunate gentleman, being still near the door, unbolted it.

I then returned to him; and as I was supporting him to an elbow-chair which stood near the fire, I could not help observing, that he might thank himself for what had happened, as he had been the aggressor; that I supposed he took me for a coward, but I hoped I had as much courage as another man. Mr. Chaworth replied, "My lord, all I have to say is, you have behaved like a gentleman."

During this discourse Fynmore came into the room, took our swords, whilst I was employed, to the best of my power, in supporting Mr. Chaworth, and at my request went for the surgeon. The rest of the gentlemen also, who were above stairs, being now alarmed, came down into the room; where I continued for some time, being desirous to give every kind of assistance to the deceased; and afterwards I waited in a room below, till he was removed to his own house.

My lords, this is my melancholy story. I cannot pretend to call any witnesses in support of those parts of it, which relate to what passed during the few minutes whilst we were in private; but as the declarations of the deceased are admitted as evidence, your lordships will com-

pare the broken accounts collected by those gentlemen who discoursed with him, with such circumstances as my memory and knowledge tell me are exactly true.

There are several persons now attending, and ready to attest various instances of friendly intercourse and civility from me to the deceased; but as nothing has been offered to induce your lordships to believe the contrary, I will not enter into that evidence, nor offer any other on my part, relying upon your lordships' justice, and my own innocence: not only as that innocence may be presumed from the insufficiency of proof on the part of the prosecutors, to shew either malice or premeditation in me, but as most of the witnesses unanimously agree in declaring the provocation, challenge, and insult offered me; and your lordships will not imagine that I felt them with less emotion, because my manner and my words were decent.

My lords, as the provocation was great, so the time was very short between the conversation and my meeting with Mr. Chaworth upon the stairs, which was quite unexpected to me.

After that accidental meeting, the time of our continuing together (which was scarce four minutes), the light, the unfitness of the place, and every other circumstance prove, in the strongest manner, that nothing could be more sudden and unpremeditated than the conflict that ended so unfortunately, and in which I received the first thrust, at the peril of my own life.

Our fighting could not be very regular, circumstanced as it was; but notwithstanding some insinuations, my own mind does not charge me with the least unfairness. The facts declared by Mr. Chaworth import the contrary; and Mr. Partington has acquainted your lordships, that the last declarations, reduced into writing, were understood by him, and by the other gentlemen present, as an answer to every question which had been asked.

My lords, it is very plain from the evidence, that Mr. Chaworth had not cooled; and if the infirmity of his temper was such, as not to have recovered itself in so short an interval, though he had done the injury; your lordships, I hope, will at least make that allowance (which the law permits) to the like infirmity of nature in him who had been injured.

Grieved and affected as I am on this occasion, and willing to spare any reflection on the dead, the necessity of my defence obliges me to take notice, that according to the evidence of Mr. Donston, whom he desired to speak with on the stairs, he but too clearly explained the

sense in which his words were intended, by asking that gentleman, Whether he had observed what passed between himself and me, and whether he had left the matter short?

Such a behaviour, my lords, needs no comment, especially if considered with the sequel of it; after we came in the room below, where he declined giving me any reasonable explanation, though such an one might easily have been given as would have been consistent with my honour and character.

In such a case your lordships will, no doubt, have some consideration for human weakness and passion, always influenced and inflamed in some degree by the customs of the world.

And though I am persuaded that compassion can never obstruct your impartial justice, yet I trust that you will incline to mitigate the rigour of it, and administer it, according to law, in mercy.

I am told, my lords, that it has been held by the greatest authorities in the law, that if contumelious words (and still more, I presume, if contemptuous words of challenge,) have been given by one man to another and before they are cooled, either bids the other draw his sword, and death ensues, after mutual passes, the fact in that case will not amount to murder.

Therefore I am willing to hope that your lordships, in weighing these circumstances, may find sufficient cause to acquit me of all malice, and to consider me as an unhappy man, innocent in intention, conscious only of misfortune.

My lords, I will detain you no longer. I am in your lordships' judgment, and shall expect your sentence, whether for life or death, with all the submission that is due to the noblest and most equitable court of judicature in the world."

The peers present, including the High Steward, declared Lord Byron, on their honour, to be not guilty of murder but guilty of manslaughter, with the exception of four peers who found him not guilty generally.

On this verdict being given, Lord Byron was called upon to say why judgment of manslaughter should not be pronounced upon him. His lordship immediately claimed the benefit of the 1st Edward VI. cap. 12, a statute, by which whenever a peer was convicted of any felony for which a commoner might have benefit of clergy, such peer on praying the benefit of that act was always to be discharged without burning in the hand, or penal consequence whatsoever. This singular privilege was supposed to be abrogated by the 7 & 8 Geo. IV. cap. 28. s. 6. which

abolished benefit of clergy, but some doubt rising on the subject, it was positively put an end to by the 4 & 5 Victoria, cap. 22.

The claim of Lord Byron being accordingly allowed, he was forthwith discharged on payment of his fees.

His lordship survived the trial thirty-three years, and died in 1798, leaving no surviving issue by Elizabeth, his wife, daughter and heir of Charles Shaw, Esq. of Besthorp Hall, Norfolk. At his decease, the title devolved on his grand-nephew, George Gordon, the late Lord Byron. That distinguished nobleman, in a letter written shortly before he left Genoa for Greece, thus refers to the subject of the fatal rencontre: "As to the Lord Byron who killed Mr. Chaworth in a duel, so far from retiring from the world, he made the tour of Europe, and was appointed Master of the Stag Hounds after that event; and did not give up society until his son had offended him by marrying in a manner contrary to his duty. So far from feeling any remorse for having killed Mr. Chaworth, who was a 'spadassin,' and celebrated for his quarrelsome disposition, he always kept the sword which he used upon that occasion in his bed-chamber, and there it still was when he died."

THE TRIAL OF THE DUCHESS OF KINGSTON, FOR BIGAMY.

This extraordinary investigation created a great sensation at the time it occurred, even more so than the trial of the rebel lords had done thirty years before. The singular character and life of the defendant, her high station, as well as the eminent rank of the other parties concerned, gave such attraction to the Duchess's trial that scarcely any other subject was thought or talked of in London while it lasted. Before proceeding to its details, it becomes necessary to give a short account of the principal actors in the affair.

The Hon. Augustus John Hervey, to whom the Duchess of Kingston was married 1744, was son of John Lord Hervey, and grandson of John, 1st Earl of Bristol. He succeeded in 1775 to the family honours at the decease of his brother, George William, 2nd Earl, and, having adopted the naval profession, attained the rank of Vice Admiral of the Blue. His death occurred in 1779, when, as he left no child, the peerage of Bristol devolved on his brother, Frederick, Bishop of Derry, father of the present Marquess.

Evelyn Pierrepont, Duke of Kingston, was the representative of one of the oldest and most opulent families in the kingdom. His immediate ancestor, Robert, 1st Earl of Kingston, espoused with the most devoted zeal the cause of royalty during the great Civil War, and is said to have brought no fewer than four thousand men to the standard of the king. He bore the popular designation of "the good Earl of Kingston," and was universally esteemed among the cavalier commanders. The Duke, referred to in the trial, died without issue in 1773; his extensive estates subsequently devolved on his nephew, Charles Medows, Esq. who assumed by sign manual in 1788 the surname of Pierrepont, and was created Earl Manvers.

Elizabeth, Duchess of Kingston, was born in 1720, the only daughter of Colonel Thomas Chudleigh, the second son of Sir George Chudleigh, Bart., of Ashton. Of the very ancient family of Chudleigh, fruitful as the county of Devon is known to have been in distinguished houses, it may with truth be stated that it was one of the most eminent, the most conspicuous and the most highly allied which even that quarter of England could boast of. The Baronetcy became extinct at the decease in 1745 of Sir John Chudleigh, of Chalmington.

Very few women have ever made themselves more notorious than this Duchess of Kingston had done in her youthful days. The history of her life has all the interest of a romance, and indeed may be said to bear out the correctness of Byron's apothegm, that truth is stranger than fiction. Prints of her are still to be found in the costume (or to speak nearer the truth no costume, unless the slender covering of our first mother in the garden of Eden can be so termed) in which she appeared at a fancy dress ball given by the Venetian ambassador in London. She was then the beautiful Miss Chudleigh, one of the maids of honour to the queen of George the Second. While she retained this situation, she was privately married to the Hon. Augustus Hervey; but having, as the story goes, detected a delinquency of a very peculiar nature committed by her husband, she renounced all connection with him very shortly after their nuptials. Some time afterwards, she bethought herself that it would be advisable to destroy all evidence of the ceremony ever having been performed; and posting down to the village in Hampshire where it had taken place, she tore out the leaf with her own hand. Upon his coming to the title and estates of Earl of Bristol, she changed her mind upon this score, and conceived it might be desirable to have the means of proving her marriage in case of need, for which purpose she got the register once more into her possession, and substituted an entry in her own writing for the one she had cancelled. When she had married and buried the Duke of Kingston, Lord Bristol being all the while alive, the heirs of his grace got information of this first match; and as the dowager had been treated by the will much more liberally than comported with their interests, they resolved to establish the fact of bigamy. The lady was in Italy when the proceedings were begun, but she resolved on appearing to take the chances of her trial; and having compelled her banker, pistol in hand, to deliver certain funds she was in want of for her journey, and which he was rather reluctant to yield, she arrived in London prepared to abide the event. As if she had

not by this furnished sufficient matter of conversation for the town, she next contrived to engage herself in a paper war with no other an antagonist than Samuel Foote. This unprincipled wit had come to the knowledge of some private incidents of her life, through the medium of a woman who had formerly been her confidante, and these he introduced into a play or farce, called the "Trip to Calais," in which she was to be brought forward under the name of Lady Kitty Crocodile. When he had finished this notable performance, so that it was ready for the stage, he gave her an intimation of what he had done, and had the effrontery to ask two thousand pounds for the suppression of his libel. It is said he actually refused sixteen hundred. Fortunately he was altogether foiled in his infamous plot, for the lord chamberlain refused to license the play, and though he threatened to publish it, a counter-threat of an action of law made him abandon his project. Thereupon he wrote to inform the duchess that the affair was at an end, and she very foolishly published his letter with her own answer to it. This drew forth a reply from Foote, and in the encounter of their wits her grace certainly had not the best of it, although she laid aside ceremony so far as to inform him that she was writing to the descendant of a merry-andrew, and prostituting the name of manhood by applying it to him; whereas he chose rather to trust to his pen with keen satire than with mere abuse.

The trial commenced on the 15th April, 1776, and Westminster Hall was thronged with a regal and aristocratic audience. Queen Charlotte was present, with the young Prince of Wales, and four other of her children: the crowd of peeresses, foreign ambassadors, and people of consequence was immense.

About ten o'clock, the Lords came from the House of Peers into the court erected for the trial in Westminster Hall, in the usual order, and the proceedings began with the ordinary formalities.

The Lord High Steward for the occasion was the Lord Chancellor, Henry, Earl Bathurst.

The Duchess-dowager of Kingston was brought to the bar by the deputy-gentleman usher of the Black Rod: her grace was attended by Mrs. Egerton, Mrs. Barrington, and Miss Chudleigh, three of the ladies of her bedchamber, and her chaplain, physician, and apothecary. The prisoner, when she approached the bar, made three reverences, and then fell upon her knees at the bar.

L. H. S. Madam, you may rise.

The prisoner then rose up, and curtsied to his grace the Lord High Steward, and to the House of Peers: in return to which compliment his grace and the lords bowed.

Then, proclamation having been made again for silence, the Lord High Steward spoke to the prisoner as follows:

"Madam; you stand indicted for having married a second husband, your first husband being living.

This crime is so destructive of the peace and happiness of private families, and so injurious in its consequences to the welfare and good order of society, that by the statute-law of this kingdom it was for many years (in your sex) punishable with death: the lenity, however, of later times has substituted a milder punishment in its stead.

This consideration must necessarily tend to lessen the perturbation of your spirits upon this awful occasion.

But that, Madam, which, next to the inward feelings of your own conscience, will afford you most comfort is, reflecting upon the honour, the wisdom, and the candour of this high court of criminal jurisdiction.

It is, Madam, by your particular desire that you now stand at that bar: you were not brought there by any prosecutor.

In your petition to the Lords, praying for a speedy trial, you assumed the title of Duchess-dowager of Kingston, and it was by that title that the court of King's-bench admitted you to bail; in your petition you likewise averred, that Augustus John Hervey, whose wife the indictment charges you with being, is at this time Earl of Bristol: upon examining the records, the Lords were satisfied of the truth of that averment, and have accordingly allowed you the privilege you petitioned for, of being tried by your peers in full parliament; and from them you will be sure to meet with nothing but justice tempered with humanity.

Before I conclude, I am commanded by the House to acquaint you, Madam, and all other persons having occasion to speak to the Court during the trial, that they are to address themselves to the lords in general, and not to any lord in particular."

Duchess of Kingston. "My lords, I, the unfortunate widow of your late brother, the most noble Evelyn Pierrepont, Duke of Kingston, am brought to the bar of this right honourable house without a shadow of fear, but infinitely awed by the respect that is due to you, my most honourable judges.

My lords, after having, at the hazard of my life, returned from Rome in a dangerous sickness to submit myself to the laws of my country, I

plead some little merit in my willing obedience; and I intreat your lordships' indulgence, if I should be deficient in any ceremonial part of my conduct towards you, my most honoured and respectable judges; for, the infirmities of my body and the oppression of spirits under which I labour, leave your unhappy prisoner sometimes without recollection: but it must be only with the loss of life, that I can be deprived of the knowledge of the respect that is due to this high and awful tribunal."

The lord high steward desired the lady to give attention, while she was arraigned on an indictment for bigamy. Proclamation for silence being made, the duchess (who had been permitted to sit) arose, and read a paper, representing to the court that she was advised by her counsel to plead the sentence of the ecclesiastical court in the year 1769, as a bar to her being tried on the present indictment. The lord high steward informed her that she must plead to the indictment; in consequence of which she was arraigned; and, being asked by the clerk of the crown whether she was guilty of the felony with which she stood charged, she answered with great firmness, *Not guilty, my Lords.* The clerk of the crown then asking her how she would be tried, she said, *by God and her peers;* on which the clerk said, *God send your ladyship a good deliverance.*

The Solicitor-General then arose, and delivered a learned and elaborate speech, wherein he was extremely severe on the consistory court, saying he could not allow authority to that doctrine which puts the decisions of that court above the cognizance of the temporal ones.

Lord Talbot addressed the court, observing, that as the matter in agitation was of the utmost importance, both to the noble prisoner, and the right honourable court in general, the pleadings on both sides could not be weighed with too minute an attention; and lest the memory should be encumbered (candidly acknowledging that he had already heard more than he believed his mind would retain) he moved for the court to adjourn to the chamber of parliament.

The peers having taken their seats in the parliament chamber, Lord Camden proposed the following questions to the judges:—"Whether it was their opinion that the court had power to call evidence in support of the prosecution; or whether they deemed the sentence of the ecclesiastical court conclusive and irrevocable? and whether the prosecutor could or could not proceed in this court against the prisoner for obtaining the decision of the consistory court by collusion and fraud?" The opinion of the judges was, that in either case the prosecutor was

authorised to enter into evidence in support of the indictment on which the prisoner stood arraigned.

In consequence of the above determination, the house, after having withdrawn for about half an hour, returned into court; and the lord high steward informed the attorney-general, that he was directed by their lordships to order him to proceed with the trial.

The Attorney General, Edward Thurlow, afterwards Lord Chancellor, then addressed the court as follows.

Att. Gen. "My lords, it seems to be matter of just surprize, that, before the commencement of the last century, no secular punishment had been provided for a crime of this malignant complexion and pernicious example.

Perhaps the innocence of simpler ages, or the more prevailing influence of religion, or the severity of ecclesiastical censures, together with those calamities which naturally and necessarily follow the enormity, might formerly have been found sufficient to restrain it.

From the moment these causes ceased to produce that effect, imagination can scarcely state a crime which calls more loudly, and in a greater variety of respects, for the interposition of civil authority; which, besides the gross and open scandal given to religion, implies more cruel disappointment to the just and honourable expectations of the persons betrayed by it; which tends more to corrupt the purity of domestic life, and to loosen those sacred connections and close relations, designed by Providence to bind the moral world together; or which may create more civil disorder, especially in a country where the title to great honour and high office is hereditary.

[Here followed a great uproar behind the bar, and the Serjeant at Arms made the usual proclamation.]

My lords, the misfortunes of individuals, the corruption of private life, the confusion of domestic relations, the disorder of civil succession, and the offence done to religion, are suggested, not as ingredients in the particular offence now under trial, but as miseries likely to arise from the example of the crime in general; and are laid before your lordships only to call your attention to the course and order of the trial, that nothing may fall out, which may give countenance to such a crime, and heighten such dangers to the public.

The present case, to state it justly and fairly, is stript of much of this aggravation. The advanced age of the parties, and their previous habits of life, would reduce many of these general articles of mischief and

criminality to idle topics of empty declamation. No part of the present complaint turns upon any ruin brought on the blameless character of injured innocence; or upon any disappointment incurred to just and honourable pretensions; or upon any corruption supposed to be introduced into domestic life. Nor should I expect much serious attention of your lordships, if I should urge the danger of entailing an uncertain condition upon a helpless offspring, or the apprehension of a disputed succession to the house of Pierrepoint, as probable aggravations of this crime.

But your lordships will be pleased withal to remember, that every plea, which, in a case differently circumstanced, might have laid claim to your pity for an unfortunate passion in younger minds, is entirely cut off here. If it be true, that the sacred rights of matrimony have been violated, I am afraid it must also appear, that dry lucre was the whole inducement, cold fraud the only means to perpetrate that crime. In truth, the evidence, if it turns out correspondent to the expectations I have formed, will clearly and expressly represent it as a matter of perfect indifference to the prisoner which husband she adhered to, so that the profit to be drawn from this marriage, or from that, was tolerably equal. The crime, stated under these circumstances, and carrying this impression, is an offence to the law; which, if it be less aggravated in some particulars, becomes only more odious in others.

But I decline making general observations upon the evidence. I will state it to your lordships (for it lies in a very narrow compass) in the simplest and shortest manner I can invent. The facts (as the state of the evidence promises me they will be laid before your lordships) form a case, which it will be quite impossible to aggravate, and extremely difficult to extenuate.

My lords, considering the length of time which has intervened, a very few periods will comprise the facts which I am able to lay before your lordships. First, the marriage of the prisoner with Mr. Hervey; her cohabitation with him at broken and distant intervals; the birth of a child in consequence of it; the rupture, and separation which soon followed. Secondly, the attempt which the prisoner, in view to the late Lord Bristol's then state of health, made to establish the proofs of her marriage with the present earl. Lastly, the plan, which makes the immediate subject of the present indictment, for bringing about the celebration of a second marriage with the late Duke of Kingston.

The prisoner came to London early in life, some time, as I take

it, about the year 1740. About 1743, she was introduced into the family of the late Princess of Wales, as her maid of honour. In the summer of 1744, she contracted an acquaintance with Mr. Hervey; which begins the matter of the present indictment. This acquaintance was contracted by the mere accident of an interview at Winchester races. The familiarity immediately began; and very soon drew to its conclusion.

Miss Chudleigh was about eighteen years of age; and resided at the house of a Mr. Merrill, her cousin, on a visit with a Mrs. Hanmer, her aunt, who was also a sister of Merrill's mother. One Mr. Mountenay, an intimate friend of Mr. Merrill's, was there at the same time.

Mr. Hervey was a boy about seventeen years old, of small fortune, but the youngest son of a noble family. He was lieutenant of the Cornwall, which made part of Sir John Davers's squadron, then lying at Portsmouth, and destined for the West Indies. In short, he appeared to Mrs. Hanmer an advantageous match for her niece.

From Winchester races he was invited to Lainston; and carried the ladies to see his ship at Portsmouth. The August following, he made a second visit to Lainston for two or three days; during which the marriage was contracted, celebrated, and consummated.

Some circumstances, which I have already alluded to, and others, which it is immaterial to state particularly, rendered it impossible, or improvident, in a degree next to impossible, that such a marriage should be celebrated solemnly, or publicly given out to the world. The fortune of both was insufficient to maintain them in that station to which his birth and her ambition had pretensions. The income of her place would have failed. And the displeasure of the noble family to which he belonged, rendered it impossible on his part to avow the connection. The consequence was, that they agreed without hesitation, to keep the marriage secret. It was necessary for that purpose to celebrate it with the utmost privacy; and accordingly no other witnesses were present, but such as had been apprised of the connection, and were thought necessary to establish the fact, in case it should ever be disputed.

Lainston is a small parish, the value of the living being about fifteen pounds a-year; Mr. Merrill's the only house in it; and the parish church at the end of his garden. On the 4th of August, 1744, Mr. Amis, the then rector, was appointed to be at the church, alone, late at night. At eleven o'clock, Mr. Hervey and Miss Chudleigh went out, as if to walk

in the garden; followed by Mrs. Hanmer, her servant (whose maiden name I forget; she is now called Ann Cradock, having married Mr. Hervey's servant of that name) Mr. Merrill, and Mr. Mountenay; which last carried a taper to read the service by. They found Mr. Amis in the church, according to his appointment; and there the service was celebrated, Mr. Mountenay holding the taper in his hat. The ceremony being performed, Mrs. Hanmer's maid was despatched to see that the coast was clear; and they returned into the house without being observed by any of the servants. I mention these small circumstances, because they happen to be recollected by the witness.

The marriage was thus concluded and he remained with her that and the two or three nights following; after which he was obliged to return to his ship which had received sailing orders.

Miss Chudleigh went back, as had been agreed, to her station as maid of honour in the family of the princess dowager. Mr. Hervey sailed in November following for the West Indies; and remained there till August, 1746, when he set sail for England. In the month of October following he landed at Dover, and resorted to his wife, who then lived, by the name of Miss Chudleigh, in Conduit-street. She received him as her husband, and entertained him accordingly, as far as consisted with their plan of keeping the marriage secret. In the latter end of November in the same year, Mr. Hervey sailed for the Mediterranean, and returned in the month of January 1747, and stayed here till May in the same year. Meanwhile she continued to reside in Conduit-street, and he to visit her as usual, till some differences arose between them, which terminated in a downright quarrel; after which they never saw each other more. He continued abroad till December 1747, when he returned; but no intercourse, which can be traced, passed between them afterwards.

This general account is all I am able to give your lordships of the intercourse between Mr. Hervey and his wife. The cause of the displeasure which separated them, is immaterial to be enlarged upon. The fruit of their intercourse was a son, born at Chelsea, some time in the year 1747. The circumstances of that birth, the notice of which people took of it, and the conversations which she held about that, and the death of the child, furnish part of the evidence, that a matrimonial connection actually subsisted between them.

After having mentioned so often the secrecy with which the marriage and cohabitation were conducted, it seems needless to observe to your lordships, that the birth of the child was suppressed with equal care.

That also made but an awkward part of the family and establishment of a maid of honour.

My lords, that which I call the second period, was in the year 1759. She had then lived at a distance from her husband near twelve years. But the infirm state of the late Lord Bristol's health seemed to open the prospect of a rich succession, and an earldom. It was thought worth while, as nothing better had then offered, to be Countess of Bristol; and for that purpose to adjust the proofs of her marriage.

Mr. Amis, the minister who had married them, was at Winchester, in a declining state of health. She appointed her cousin, Mr. Merrill, to meet her there on the 12th of February, 1759; and by six in the morning she arrived at the Blue Bear inn, opposite Mr. Amis's house. She sent for his wife, and communicated her business, which was to get a certificate from Mr. Amis of her marriage with Mr. Hervey. Mrs. Amis invited her to their house, and acquainted her husband with the occasion of her coming. He was ill a-bed; and desired her to come up. But nothing was done in the business of the certificate, till the arrival of Mr. Merrill, who brought a sheet of stamped paper to write it upon. They were still at a loss about the form, and sent for one Spearing, an attorney. Spearing thought that the merely making a certificate, and delivering it out in the manner which had been proposed, was not the best way of establishing the evidence which might be wanted. He therefore proposed, that a check-book (as he called it) should be bought; and the marriage be registered in the usual form, and in the presence of the prisoner. Somebody suggested that it had been thought proper she should be present at the making of the register, he desired she might be called; the purpose being perfectly fair, merely to state that in the form of a register, which many people knew to be true; and which those persons of honour, then present, give no room to doubt. Accordingly his advice was taken, the book was bought, and the marriage was registered. The book was entitled, 'Marriages, Births, and Burials in the parish of Lainston.' The first entry ran, 'The 22nd of August, 1742, buried Mrs. Susannah Merrill, relict of John Merrill, Esq.' The next was, 'The 4th of August, 1744, married the Honourable Augustus Hervey, Esq., to Miss Elizabeth Chudleigh, daughter of Colonel Thomas Chudleigh, late of Chelsea College, deceased, in the parish church of Lainston, by me Thomas Amis.' The prisoner was in great spirits. She thanked Mr. Amis, and told him, it might be a hundred thousand pounds in her way. She told Mrs. Amis all her

secrets; of the child she had by Mr. Hervey; a fine boy, but it was dead; and how she borrowed £100 of her aunt Hanmer to make baby clothes. It served the purpose of the hour to disclose these things. She sealed up the register, and left it with Mrs. Amis, in charge upon her husband's death, to deliver it to Mr. Merrill. This happened in a few weeks after.

Mr. Kinchin, the present rector, succeeded to the living of Lainston; but the book remained in the possession of Mr. Merrill.

In the year 1764 Mrs. Hanmer died, and was buried in Lainston. A few days after, Mr. Merrill desired her burial might be registered. Mr. Kinchin did not know of any register which belonged to the parish; but Mr. Merrill produced the book which Mr. Amis had made; and taking it out of the sealed cover, in which it had remained till that time, shewed Kinchin the entry of the marriage, and bade him not mention it. Kinchin subjoined the third entry, 'Buried, December the 10th, 1764, Mrs. Ann Hanmer, relict of the late Colonel William Hanmer: and delivered the book again to Mr. Merrill.'

In the year 1767 Mr. Merrill died. Mr. Bathurst, who married his daughter, found this book among his papers; and taking it to be, what it purported, a parish register, delivered it to Mr. Kinchin accordingly. He has kept it as such ever since; and upon that occasion made the fourth entry, 'Buried, the 7th of February, 1767, John Merrill, Esq.'

The Earl of Bristol recovered his health; and the register was forgotten, till a very different occasion arose for enquiry after it.

The third period to which I begged the attention of your lordships in the outset, was in the year 1768. Nine years had passed, since her former hopes of a great title and fortune had fallen to the ground. She had at length formed a plan to attain the same object another way. Mr. Hervey also had turned his thoughts to a more agreeable connection; and actually entered into a correspondence with the prisoner, for the purpose of setting aside a marriage so burdensome and hateful to both. The scheme he proposed was rather indelicate; not that afterward executed, which could not sustain the eye of justice a moment; but a simpler method, founded in the truth of the case; that of obtaining a separation by sentence "a mensâ et thoro;" which might serve as the foundation of an act of parliament for an absolute divorce. He sent for a message to this effect, in terms sufficiently peremptory and rough, as your lordships will hear from the witness. Mrs. Cradock, the woman I have mentioned before as being Mrs. Han-

mer's servant, and present at the marriage, was then married to a servant of Mr. Hervey, and lived in the prisoner's family with her husband. He bade her tell her mistress, "that he wanted a divorce; that he should call upon her (Cradock) to prove the marriage; and that the prisoner must supply such other evidence as might be necessary."

This might have answered his purpose well enough; but her's required more reserve and management; and such a proceeding might have disappointed it. She therefore spurned at that part of the proposal; and refused it in terms of high resentment. On the 18th of August following she entered a caveat at Doctors' Commons, to hinder any process passing under the seal of the court, at the suit of Mr. Hervey, against her, in any matrimonial cause, without notice to her proctor.

What difficulties impeded the direct and obvious plan, or what inducement prevailed in favour of so different a measure, I cannot state to your lordships. But it has been already seen in the debate of many days, what kind of plan they substituted in place of the former.

In the Michaelmas session of the year 1768, she instituted a suit of jactitation of marriage in the common form. The answer was a cross libel, claiming the rights of marriage. But the claim was so shaped, and the evidence so applied, that success became utterly impracticable.

A grosser artifice, I believe, was never fabricated. His libel stated the marriage, with many of its particulars; but not too many. It was large in alleging all the indifferent circumstances which attended the courtship, contract, marriage ceremony, consummation, and cohabitation; but when it came to the facts themselves, it stated a secret courtship; and a contract, with the privity of Mrs. Hanmer alone, who was then dead. The marriage ceremony, which, in truth, was celebrated in the church at Lainston, was said to have been performed at Mr. Merrill's house, in the parish of Sparshot, by Mr. Amis, in the presence of Mrs. Hanmer and Mr. Mountenay, who were all three dead. Mrs. Cradock, whom but three months before he held out as a witness of the marriage, was dropped; and, to shut her out more perfectly, the consummation is said to have passed without the privity or knowledge of any part of the family and servants of Mr. Merrill; meaning perhaps that Cradock was servant to Mrs. Hanmer. It was further insinuated, that the marriage was kept a secret, except from the persons before-mentioned.

To these articles the form of proceeding obliged her to put in a personal answer upon oath. She denies the previous contract; she evades

the proposal of marriage, by stating that it was made to Mrs. Hanmer without her privity; not denying that it was afterwards communicated to her. The rest of the article, which contains a circumstantial allegation of the marriage, together with the time, place, witnesses, and so forth, she buries in the formulary conclusion of every answer, by denying the rest of the said pretended position or article to be true in any part thereof. Finally, she demurs to the article which alleges consummation.

Denying the rest of the article to be true in "any part" of it reserves this salvo. The whole averment of marriage was but "one part" of the article; that averment (the language is so constructed) makes but one member of a sentence; and yet it combines false circumstances with true. "They were, in Mr. Merrill's house at Sparshot, joined together in holy matrimony." This part of the article, as her answer calls it, is not true. It is true they were married; but not true, that they were married at Sparshot, or at Mr. Merrill's house.

How was this gross and palpable evasion treated? It is the course of the Ecclesiastical Court to file exceptions to indistinct or insufficient answers. Otherwise, to be sure, they could not compel a defendant to put in any material answer. But it was not the purpose of this suit to exact a sufficient answer; consequently no exceptions were filed; but the parties went to issue.

The plan of the evidence also was framed upon the same measured line. The articles had excluded every part of the family: even the woman whom Mr. Hervey had sent to demand the divorce, was omitted. But her husband is produced, to swear, that in the year 1744 Mr. Hervey danced with Miss Chudleigh at Winchester races, and visited her at Lainston; and in 1746 he heard a rumour of their marriage. Mary Edwards and Ann Hillam, servants in Mr. Merrill's family, did not contradict the article they were examined to, which alleges, that none of his servants knew any thing of the matter. But they had heard the report. So had Messrs. Robinson, Hossach, and Edwards. Such was the amount of Mr. Hervey's evidence; in which the witnesses made a great shew of zeal to disclose all they know, with a proper degree of caution to explain that they know nothing.

The form of examining witnesses was also observed on her part; and she proved, most irrefragably, that she passed as a single woman; went by her maiden name; was maid of honour to the princess dowager; bought and sold; borrowed money of Mr. Drummond; and kept cash

with him, and other bankers, by the name of Elizabeth Chudleigh; nay, that Mr. Merrill and Mrs. Hanmer, who had agreed to keep the marriage secret, conversed and corresponded with her by that name.

For this purpose a great variety of witnesses was called; whom it would have been very rash to produce, without some foregone agreement, or perfect understanding, that they should not be cross-examined. Many of them could not have kept their secret under that discussion; even in the imperfect and wretched manner, in which the cross-examination is managed upon paper, and in those courts. Therefore not a single interrogatory was filed, nor a single witness cross-examined, though produced to articles exceedingly confidential, such as might naturally have excited the curiosity of an adverse party to have made further enquiries.

In the event of this cause, thus treated, thus pleaded, and thus proved, the parties had the singular fortune to catch a judgment against the marriage by mere surprise upon the justice of the court.

While I am obliged to complain of this gross surprise, and to state the very proceedings in the cause as pregnant evidence of their own collusion, I would not be understood to intend any reflection on the integrity or ability of the learned and respectable judges.

> For oft, though wisdom wake, suspicion sleeps
> At wisdom's gate, and to simplicity
> Resigns her charge; while goodness thinks no ill,
> Where no ill seems.———

Nor should any imputation of blame be extended to those names which your lordships find subscribed to the pleadings. The forms of pleading are matters of course. And if they were laid before counsel, only to be signed, without calling their attention to the matter of them, the collusion would not appear. A counsel may easily be led to overlook what nobody has any interest or wish that he should consider.

Thus was the way paved to an adulterous marriage; thus was the Duke of Kingston drawn in to believe, that Mr. Hervey's claim to the prisoner was a false and injurious pretension; and he gave his unsuspecting hand to a woman, who was then, and had for twenty-five years, been the wife of another.

In the vain and idle conversations which she held, at least with those who knew their situation, she could not refrain from boasting how she had surprised the Duke into that marriage. "Do not you think," says she with a smile to Mrs. Amis, "do not you think, that it was very kind

in his grace to marry an old maid?" Mrs. Amis was widow of the clergyman who had married her to Mr. Hervey, who had assisted her in procuring a register of that marriage, and to whom she had told of the birth of the child. The Duke's kindness, as she insultingly called it, was scarcely more strange, than her manner of representing it to one who knew her real situation so well.

My lords this is the state of the evidence; which must be given, were it only to satisfy the form of the trial; but is in fact produced, to prove that, which all the world knows perfectly well, as a matter of public notoriety. The subject has been much talked of; but never, I believe, with any manner of doubt, in any company at all conversant with the passages of that time in this town. The witnesses, however, will lay these facts before your lordships; after which, I suppose, there can be no question what judgment must be pronounced upon them: for your lordships will hardly view this act of parliament just in the light in which the prisoner's counsel have thought fit to represent it, as a law made for beggars, not for people of fashion. To be sure, the preamble does not expressly prove the legislature to have foreseen or expected, that these would be the crimes of higher life, or nobler condition. But the act is framed to punish the crime, wherever it might occur; and the impartial temper of your justice, my lords, will not turn aside its course in respect to a noble criminal.

Nor does the guilt of so heinous a fraud seem to be extenuated, by referring to the advice of those by whose aid it was conducted, or to the confident opinion they entertained of the success of their project. I know this project was not (nor did I ever mean to contend it was) all her own. Particularly, in that fraudulent attempt upon public justice, it could not be so. But, my lords, that imparting a criminal purpose to the necessary instruments for carrying it into execution, extenuates the guilt of the author, is a conceit perfectly new in morality, and more than I can yield to. It rather implies aggravation, and the additional offence of corrupting these instruments. Not that I mean by this *observation* to palliate the guilt of such corrupt instruments. I think it may be fit, and exceedingly wholesome, to convey to Doctors' Commons, that those among them, if any such there are, who, being acquainted with the whole extent of the prisoner's purpose, to furnish herself with the false appearance of a single woman in order to draw the duke into such a marriage, assisted her in executing any part of it, are far enough from being clear of the charge contained in this indictment. They are

accessaries to her felony; and ought to answer for it accordingly. This is stating her case fairly. The crime was committed by her and her accomplices. All had their share in the perpetration of the crime: each is stained with the whole of the guilt.

My lords, I proceed to examine the witnesses. The nature of the case shuts out all contradiction or impeachment of testimony. It will be necessary for your lordships to pronounce that opinion and judgment, which so plain a case will demand."

The evidence offered on the part of the crown fully bore out the allegations in Mr. Attorney's speech. The following is the more curious, and interesting portion of the testimony. One witness was the great surgeon, Cæsar Hawkins, who among other matters made the following relation:—

Mr. *Hawkins.* "To the best of my remembrance, the Earl of Bristol met me in the street, and stopped me, telling me that he should be glad I would call on him at his house the first morning I had half an hour to spare; and if I could then fix the time, he would take care to be in the way, and that no other company should interrupt the conversation. He intimated that it was not on account of his own health, but on account of an old friend of mine. I named the time, and went to him. I found his lordship expecting me. Upon a table, at a little distance from his right hand, there lay two or three bundles of papers, folded up as these papers are [taking up some papers at the bar]; to these papers he often pointed in course of what he said afterwards. After making some polite apologies to me for the particular trouble he was then giving me, he told me it was on the present Duchess of Kingston's account: that he wished me to carry her a message upon a subject that was very disagreeable, but that he thought it would be less shocking to be carried by, and received from, a person she knew, than from any stranger: that he had been for some time past very unhappy on account of his matrimonial connections with the duchess, Miss Chudleigh that was then: that he wished to have his freedom; that as to the criminality of her conduct, the evidence which he had of it (which, in pointing to the papers I before mentioned, he said he had for some time past, with intent and purpose to procure a divorce, been collecting and getting together:) he believed they contained the most ample and abundant proofs, circumstances, and every thing relative to such proof: that he intended to pursue his prosecution with the strictest firmness and resolution, but that he retained such a regard and respect for her, and, as a gentleman, to his own character,

that he wished not to mix malice or ill temper in the course of it; but that in every respect he would wish to appear and act on the line of a man of honour and of a gentleman: that he wished (he said) she would understand that his soliciting me to carry the message should be received by her as a mark of that disposition; that as most probably in the number of so many testimonial depositions as were there collected, there might be many offensive circumstances named, superfluous to the necessary legal proofs, that if she pleased I might inform her that her lawyers, either with or without herself, might, in conjunction with his lawyers, look over all the depositions, and that if any parts were found tending to indecent or scandalous reflections, which his gentlemen of the law should think might be omitted without weakening his cause, he himself should have no objection to it: that as he intended only to act upon the principles of a gentleman and a man of honour, he should hope she would not produce any unnecessary or vexatious delays to the suit, or enhance the expences of it, as he did not intend to prosecute to gain by any demands of damages, I think, or to that purpose. I delivered this message to the duchess as well as I could. I do not presume now, that either the precise words, or the identity of the words and expressions can be recollected by me, but it was to the purport, as near as possibly I can remember, of what I have said.

"Will you recollect, whether upon this conversation any distinct proposition was stated to the duchess which required an answer? or, what answer you carried back from the duchess for that purpose? You will of course be referring yourself to what passed between you and the duchess."—I delivered my message to the duchess. After a little time taken for consideration, I do not recollect exactly what her grace desired me to report to the Earl of Bristol; but it was to this effect: that she was obliged to him for the polite parts of his message, but, as to the subject of the divorce, she should cut that short by wishing him to understand, that she did not acknowledge him for her legal husband, and should put him to the defiance of such proof: that she had then already, or should immediately, institute a suit in the Ecclesiastical Court, which she called, I think, a jactitation of marriage; but, as he had promised before, that he would act upon the line of a man of honour and a gentleman in his own intended suit, she hoped that he would pursue the same line now, and that he would confine himself to the proofs of legal marriage only, and not to other proofs of connections or cohabitations; if he did, that he would make it a process of no long delay, and that

either he would gain an equal freedom to himself by a sentence of that court, declaring them to be free, or he would the sooner be able to institute his own intended suit. The Earl of Bristol received my message as one affected and struck by it, making no reply or answer for two or three minutes; then, not speaking to me, but rather seeming to express his own thoughts aloud in short sentences, that he did not conceive he should have his equal freedom by that method. I believe I should have mentioned that her grace desired, in part of her message, that nothing might be brought forward, which might be the subject of useless conversation and scandal. He said, in reply, that he was no more inclined to bring forward any thing for the lovers of scandalous conversation only, than she could be; and that, if he could not establish the proof of legal matrimony (I do not remember the words, but to the sense of this) that he was too much a gentleman to bring any thing before the public relative to other connections with the lady. I do not remember that any thing material passed, or more than this.

When, in the course of the evidence, Lord Barrington was called as a witness, a scene ensued which should not be passed over, as it afforded an opportunity for a fine and characteristic burst of eloquence from the great Charles Pratt, Lord Camden, Chief Justice of the Common Pleas.

Lord *Barrington*. My lords, I am come here in obedience to your lordships' summons, ready to give testimony as to any matter that I know of my own knowledge, or that has come to me in the usual way; but if any thing has been confided to my honour, or confidentially told me, I do hold, with humble submission to your lordships, that as a man of honour, as a man regardful of the laws of society, I cannot reveal it.

Lord High Steward. When the last witness but one (Mr. Hawkins) was at the bar, he made something like the same excuse for his not answering the questions put to him. He was then informed by a noble and learned lord, and the whole court agreed with that lord, that such questions were to be answered in a court of justice.

Lord *Barrington*. I have no doubt but that the question is a proper question to be asked by a court of justice, otherwise your lordships would not have permitted it to be asked. But, my lords, I think every man must act from his own feelings; and I feel, that any private conversation entrusted to me, is not to be reported again.

A Lord. His lordship will recollect the oath that he has taken, is, that he shall declare the whole truth.

Lord *Barrington*. My lords, as I understand the oath, I can decline

answering the question that has been asked me without acting contrary to that oath, without being guilty of perjury. But, if it is the opinion of your lordships that I am bound by that oath to answer, and that I shall be guilty of a perjury if I do not answer, in that case, my lords, I shall think differently, for I will not be perjured.

Duchess of *Kingston*. I do release my Lord Barrington from every obligation of honour. I wish and earnestly desire, that every witness who shall be examined, may deliver their opinions in every point justly, whether for me or against me. I came from Rome at the hazard of my life to surrender myself to this court. I bow with submissive obedience to every decree, and do not even complain, that an ecclesiastical sentence has been deemed of no force, although such a sentence has never been controverted during the space of one thousand four hundred and seventy-five years.

Lord *Barrington*. My lords, I do solemnly declare to your lordships, on that oath that I have taken, and on my honour, that I have not had the least communication made to me of the Duchess of Kingston's generosity. I have not had the least communication with her grace by letter, message, or in any other way, for more than two months; and I had no other idea of being summoned as a witness here, until the Easter holydays, so that her grace's generosity is entirely spontaneous, and of her own accord. But, my lords, I have a doubt, which no man can resolve better than your lordships, because your honour is as high as any men; I have a doubt, whether, thinking it improper that I should betray confidential communications before the duchess consented that I should, and gave me my liberty; whether her grace's generosity ought not to tie me more firmly to my former resolutions?

Duke of *Richmond*. For one, I think that it would be improper in the noble lord to betray any private conversations. I submit to your lordships, that every matter of fact, not of conversation, which can be requested, the noble lord is bound to disclose.

Lord *Mansfield*. I mean only to propose to your lordship, to avoid adjourning to consider this question or any thing further upon it at present, that the counsel might be allowed to call other witnesses in the mean time, and that Lord Barrington may have an opportunity of considering the matter, if the counsel should think proper to call his lordship again.— [This proposal was over-ruled.]

The Counsel against the Duchess desired to withdraw the witness.

Lord *Camden*. "My lords, I understand from the bar, that rather than

your lordships should be perplexed with any question that may arise upon the noble lord's difficulty in giving his evidence at the bar, the counsel would rather wave the benefit of his evidence in the cause. My lords, if that be their resolution, and they think, that safely and without prejudice to this prosecution they may venture to give up that evidence, your lordships, to be sure, will acknowledge the politeness of the surrender. But, my lords, now I am upon my legs, you will give me leave to make one short remark upon this proceeding, and to hope that your lordships, sitting in judgment on criminal cases, the highest and most important, that may affect the lives, liberties, and properties of your lordships, that you shall not think it befitting the dignity of this high court of justice to be debating the etiquette of honour, at the same time when we are trying lives and liberties. My lords, the laws of the land, I speak it boldly in this grave assembly, are to receive another answer from those who are called to depose at your bar, than to be told that in point of honour and of conscience they do not think, that they acquit themselves like persons of that description, when they declare what they know. There is no power of torture in this kingdom to wrest evidence from a man's breast, who withholds it; every witness may undoubtedly venture on the punishment, that will ensue on his refusing to give testimony. As to casuistical points, how far he should conceal or suppress that which the justice of his country calls upon him to reveal, that I must leave to the witness's own conscience."

Lord Barrington in the end consented to give his evidence.

The Duchess of *Kingston* in her defence addressed the Lords in the following terms:—

My lords; This my respectful address will, I flatter myself, be favourably accepted by your lordships: my words will flow freely from my heart, adorned simply with innocence and truth. My lords, I have suffered unheard-of persecutions; my honour and fame have been severely attacked; I have been loaded with reproaches; and such indignities and hardships have rendered me the less able to make my defence before this august assembly against a prosecution of so extraordinary a nature, and so undeserved.

My lords, with tenderness consider how difficult is the task of myself to speak, nor say too little nor too much. Degraded as I am by adversaries; my family despised; the honourable titles on which I set an inestimable value, as received from my most noble and late dear

husband, attempted to be torn from me; your lordships will judge how greatly I stand in need of your protection and indulgence.

My lords, were I here to plead for life, for fortune, no words from me should beat the air: the loss I sustain in my most kind companion and affectionate husband, makes the former more than indifferent to me; and, when it shall please Almighty God to call me, I shall willingly lay that burthen down. I plead before your lordships for my fame and honour.

My lords, logic is properly defined, and well represented in this high court. It is a talent of the human mind, and not of the body, and holds a key which signifies, that logic is not a science itself, but the key to science. That key is your lordships' judicial capacity and wisdom. On the left hand is represented a hammer, and before it a piece of false, and another of pure gold. The hammer is your penetrating judgment, which, by the mercy of God, will strike hard at false witnesses who have given evidence against me, and prove my intention in this pending cause as pure as the finest gold, and as justly distinguished from the sophistry of falsehood.

My lords, your unhappy prisoner is born of an ancient, not ignoble family; the women distinguished for their virtue, the men for their valour; descended in an honourable and uninterrupted line for three centuries and a half. Sir John Chudleigh, the last of my family, lost his life at the siege of Ostend, at eighteen years of age, gloriously preferring to die with his colours in his bosom, rather than accept of quarter from a gallant French officer, who, in compassion to his youth, three times offered him his life for that ensign, which was shot through his heart. A happy death! that saves the blush he would now feel for the unheard-of injuries and dishonour thrown on his unfortunate kinswoman, who is now at the bar of this right honourable house.

His grace, the late Duke of Kingston's fortune, of which I now stand possessed, is valuable to me, as it is a testimony to all the world how high I was in his esteem. As it is my pride to have been the object of affection of that virtuous man, so shall it be my honour to bestow that fortune to the honour of him who gave it to me; well knowing, that the Wise Disposer of all things would not have put it in his heart to prefer me to all others, but that I should be as faithful a steward, as I was a faithful wife; and that I should suffer others, more worthy than myself, to share these his great benefits of fortune.

My lords, I now appeal to the feelings of your own hearts, whether it

is not cruel, that I should be brought as a criminal to public trial for an act committed under the sanction of the laws;—an act that was honoured with his Majesty's most gracious approbation; and previously known and approved of by my royal mistress, the late Princess Dowager of Wales; and likewise authorized by the ecclesiastical jurisdiction. Your lordships will not discredit so respectable a court, and disgrace those judges who there so legally and honourably preside. The judges of the Ecclesiastical Court do not receive their patents from the crown, but from the archbishops or bishops. Their jurisdiction is competent in ecclesiastical cases, and their proceedings are conformable to the laws and customs of the land, according to the testimony of the learned judge Blackstone (whose works are as entertaining as they are instructive,) who says, "It must be acknowledged, to the honour of the spiritual courts, that though they continue to this day to decide many questions which are properly of temporal cognizance, yet justice is in general so ably and impartially administered in those tribunals (especially of the superior kind,) and the boundaries of their power are now so well known and established, that no material inconvenience at present arises, from their jurisdiction. And should an alteration be attempted, great confusion would probably arise, in overturning long established forms, new modelling a course of proceedings that has now prevailed for seven centuries."—And I must here presume to add, as founded on truth, that that court (of which his majesty is the head) cannot be stopped by any authority whatsoever, while they act in their own jurisdiction.—Lord Chief Justice Hale says, "Where there has been a sentence of divorce, (which is a criminal case,) if that sentence is suspended by an appeal to the Court of Arches (as a superior court,) and while that appeal is depending one of the parties marries again, the sentence will be a justification within the exception of the act of parliament, notwithstanding that the sentence has been appealed from, and consequently may be reversed by a superior court." And, my lords, how much more reason is there for its coming within the exception of the act in my cases since no appeal had been made?

My lords, I earnestly look up to your lordships for protection, as being now a sufferer for having given credit to the Ecclesiastical Court. I respectfully call upon you, my lords, to protect the spiritual jurisdiction, and all the benefit of religious laws, and me, an unhappy prisoner, who instituted a suit of jactitation upon the advice of a learned cavilian, who carried on the prosecution, from which I obtained the sentence that

authorized your prisoner's marriage with the most noble Evelyn Duke of Kingston; that sentence solemnly pronounced by John Bettesworth, Doctor of Laws, Vicar-general of the Right Reverend Father in God, Richard by Divine permission Lord Bishop of London, and Official Principal of the Consistorial Court of London: the judge thereof, calling on God, and setting him alone before his eyes, and hearing counsel in that cause, did pronounce, that your prisoner, then the Honourable Elizabeth Chudleigh, was free from all matrimonial contracts or espousals, as far as to him at that time appeared, more especially with the said Right Honourable Augustus John Hervey.

My lords, had this prosecution been set on foot merely for the love of justice, or good example to the community, why did they not institute their prosecution during the five years your prisoner was received and acknowledged the undoubted and unmolested wife of the late Duke of Kingston?

My lords, the preamble of the very act on which I am indicted, plainly and entirely precludes your prisoner: it runs thus: "Forasmuch as divers evil-disposed persons, being married, run out of one county into another, or into places where they are not known, and there become to be married, having another wife or husband living, to the great dishonour of God, and utter undoing of divers honest men's children, and others, &c." And as the preamble has not been considered to be sufficient in my favour to impede the trial, I beg leave to observe how much your prisoner suffers by being produced before this noble house, on the penalty of an act of parliament, without benefitting by the preamble, which is supposed to contain the whole substance, extent, and meaning of the act.

My lords, upon your wise result on my unhappy case, you will bear in your willing remembrance, that the orphan and widow is your peculiar care; and that you will be tender of the honour of your late brother peer, and see in me his widow and representative, recollecting how easy it may be for a next of kin to prosecute the widows or the daughters, not only of every peer, but of every subject of Great Britain, if it can be effected by the oath of one superannuated and interested old woman, who declared seven years ago that she was incapable of giving evidence thereon, as will appear in proof before your lordships. And I may further observe to your lordships, that my case is clearly within the proviso of the statute on which I am indicted. In the third clause, it is "provided that this act shall not extend to any person, where the former marriage hath been, or hereafter shall be, declared by sentence of the Ecclesiastical Court to be void, and of no effect."

If there is supposed to have been a former marriage, the same must have been a true marriage, or a false one. If a true one, it cannot be declared void; and if a false one, or the semblance of one only, then only, and no otherwise, is it that it can be declared void.—Therefore must this proviso have respect to pretended marriages only, and to none other: and such only it is, that can be the objects of causes of jactitation, the sentence in which is a more effectual divorce and separation of the parties, than many divorces which have been determined to fall within this proviso.—The crime charged in the indictment was not a felony, or even a temporal offence, until the act of James the First: till then, it was only cognizable in the Ecclesiastical Court: and though an indictment could lie for a slight blow, yet the common law did not allow of a criminal prosecution for polygamy until that period; so that if the case comes within the exception of the only statute upon that subject, it is no offence at all; and Dr. Sherlock, Bishop of London, has said, in such cases the law of the land is the law of God.

My lords, I have observed, that I had greatly suffered in fame and fortune by the reports of Mr. Hervey; and I beg leave to mention in what manner. Your prisoner was at that time possessed of a small estate in the county of Devon, where Sir George Chudleigh, her father's eldest brother, had large possessions. The purchase of that estate was much solicited in that county; and having frequent opportunities to dispose of it, it was ever made an insuperable objection by the intended purchaser, that I could not make a clear title to the estate on account of Mr. Hervey's claim to your prisoner as his wife.

And your prisoner being also possessed of building lands for a great number of years, for the same reasons she never had the ground covered (valued at £1,200 per annum.) And as your prisoner's health declined, and made it necessary for her to seek relief in foreign climes (which increased her expenses beyond what her circumstances could support,) and her little fortune daily decreased by money taken upon mortgage and bond, as will appear by the evidence of Mr. Drummond; her royal mistress likewise in the decline of life, whose death would probably have deprived her of £400 a year; the prosecutions threatened on Mr. Hervey's side presented but a gloomy prospect for her declining life; your prisoner was induced, as she before observed to your lordships, to follow the advice of Dr. Collier, and instituted the suit of jactitation, your prisoner subscribing entirely to his opinion, and following his advice and instructions, which she presumes alone is a full defence

against the charge of felony; for your lordships in your great candour cannot think, that a lady can know more of the civil law, than her learned civilians could point out to her.

And as a criminal and felonious intent is necessary to constitute the offence with which I stand charged, certainly I cannot be guilty in following the advice I received, and in doing what in my conscience I thought an authorized and innocent act.

My lords, though I am aware, that any person can prosecute for the crown for an offence against an act of parliament, yet I will venture to say, that few instances, if any, have been carried into execution without the consent of the party injured: and with great deference to your lordships' judgment I ventured to declare, that in the present case no person whatever has been injured, unless your lordships' candour will permit me to say that I am injured, being now the object of the undeserved resentment of my enemies. It is plain to all the world, that his Grace the Duke of Kingston did not think himself injured, when in the short space of five years his grace made three wills, each succeeding one more favourable to your prisoner than the other, giving the most generous and incontestable proof of his affection and solicitude for my comfort and dignity. And it is more than probable, my lords, from the well-known mutual friendship subsisting between us, that had I been interested, I might have obtained the bulk of his fortune for my own family. But I respected his honour, I loved his virtue, and had rather have forfeited my life than have used any undue influence to injure the family. And though it has been industriously and cruelly circulated, with a view to prejudice me, that the first-born of the late duke's sister was deprived of the succession to his grace's fortune by my influence, the wills, my lords, made in three distant periods, each excluding him, demonstrate the calumny of these reports.

I must further observe to your lordships, in opposition to the charge against me of interestedness, that had I possessed or exercised that undue influence with which I am charged by the prosecutor, I might have obtained more than a life-interest in the duke's fortune. And though from the affection I bear to the memory of my late much-honoured husband, I have forborne to mention the reason of his disinheriting his eldest nephew, yet Charles, the second son, with his heirs, appear immediately after me in succession; William and his heirs follow next; after him Edward and his heirs; and the unfortunate Thomas, Lady Frances's youngest son, is not excluded, though labouring under

the infirmities of childhood at the age of manhood, and not able to support himself. For the late noble Duke of Kingston repeatedly mentioned to your prisoner, "I have not excluded him, for he has never offended; and who can say God cannot restore him? Who can say that God will not restore him to health?" My lords, that good man did honour to the peerage, honour to his country, honour to human nature.

His Grace the most noble Duke of Newcastle appeared with the will, which had been intrusted to his grace for four years by his late dear friend. In honour to the Lady Frances Meadows, the prosecutor was requested to attend at the opening of the will. He retired with displeasure, disappointed that his eldest son was disinherited, and unthankful, though the duke's fortune still centered in his four youngest sons and their posterity.

My lords, worn down by sorrow, and in a wretched state of health, I quitted England without a wish for that life which I was obliged by the law of God and nature to endeavour to preserve; for your prisoner can with great truth say, that sorrow had bent her mind to a perfect resignation to the will of Providence. And, my lords, while your unhappy prisoner was endeavouring to re-establish her greatly impaired health abroad, my prosecutor filed a bill in Chancery upon the most unjust and dishonourable motives. Your prisoner does not complain of his endeavouring to establish a right to himself; but she does complain of his forming a plea on dishonourable and unjust opinions of his late noble relation and generous benefactor, to the prejudice and disgust of his much afflicted widow: and not satisfied with this prosecution, as a bulwark for his suit in Chancery, he cruelly instituted a criminal prosecution, in hopes, by a conviction in a criminal cause, to establish a civil claim; a proceeding discountenanced by the opinion of the late Lord Northington.

My lords, I have heretofore forborne, from the great love and affection to my late noble lord, to mention what were the real motives that induced his grace to disinherit his eldest nephew; and when my plea and answer in Chancery were to be argued, I particularly requested of the counsel to abstain from any reflections upon my adversaries, which the nature of their prosecution too much deserved; and grieved I am now, that I must no longer conceal them. For as self-preservation is the first law of nature, and as I am more and more persecuted in my fortune and my fame, and my enemies hand about pocket-evidence to injure me in every company, and with double tongues they sting me to

the heart, I am reduced to the sad necessity of saying, that the late Duke of Kingston was made acquainted with the fatal cruelty with which Mr. Evelyn Meadows treated an unfortunate lady, who was as amiable as she was virtuous and beautiful; to cover which offence, he most ungratefully and falsely declared, that he broke his engagements with her for fear of disobliging the duke, which he has often been heard to say. This, with his cruelty to his sister and mother, and an attempt to quit actual service in the late war, highly offended the duke; and it would be difficult for him, or his father, to boast of the least friendly intercourse with his grace for upwards of eighteen years.

My lords, in a dangerous state of health, when my life was despaired of, I received a letter from my solicitor, acquainting me, that if I did not return to England to put in an answer to the bill in Chancery within twenty-one days, I should have receivers put into my estates; and also, that if in contempt of the indictment I did not return, I should be outlawed. It certainly appeared to me, my lords, as I make no doubt it does to your lordships, that if in the inclemency of the weather I risked to pass the Alps, my life would probably be endangered, and the family would immediately enter into possession of the real estates, and if female fears should prevail, that I should be outlawed. Thus was I to be deprived of life and fortune under colour of law. And that I might not return to these persecuting summonses, by some undue and cruel proceedings my credit was stopped by my banker for £4,000, when there remained an open account of £75,000, and at that instant upwards of £6,000 was in his hands, my revenues being constantly paid into his shop to my credit. Thus was I commanded to return home at the manifest risk of my life, and at the same time every art used to deprive me of the means of returning for my justification. Conscious of the perfect innocence of my intention, and convinced that the laws of this country could not be so inconsistent as to authorize an act, and then defame and degrade me for having obeyed it, I left Italy at the hazard of my life. It was not for property I returned, but to prove myself an honourable woman. Grant me, my lords, but your good opinion, and then I stand justified in the innocence of my intention, and you can deprive me of nothing that I value, even if you should take from me all my worldly possessions; for I have rested upon that seat where the poor blind Belisarius is said to have asked charity of every passenger, after having conquered the Goths and Vandals, Africans and Persians; and would do the same without murmuring, if you would pronounce me,

what I hope your lordships will cheerfully subscribe to—that I am an honourable woman.

My lords, your late brother, the truly honourable Duke of Kingston, whose life was adorned by every virtue and every grace, does not his most respectable character plead my cause and prove my innocence?

My lords, the evidence of the fact of a supposed clandestine marriage with Mr. Hervey depends entirely upon the testimony of Ann Cradock.

I am persuaded your lordships, from the manner in which she gave her evidence, already entertain great suspicions of the veracity of her testimony. She pretends to speak to a marriage ceremony being performed, at which she was not asked to be present, nor can she assign any reason for her being there.—She relates a conduct in Mrs. Hanmer, who she pretends was present at the ceremony, inconsistent with a real marriage. She acknowledges that she was in or about London during the jactitation suit, and that Mr. Hervey applied to her on that occasion; and swears that she then and ever had a perfect remembrance of the marriage, and was ready to have proved it, had she been called upon, and never declared to any person that she had not a perfect memory of the marriage, and that she never was desired either to give or withhold her evidence; and from Mr. Hervey's not calling on this woman, it is insinuated he abstained from the proof by collusion with me. She also swears, that I offered to make her an allowance of twenty guineas a year, provided she would reside in either of the three counties she has mentioned, but acknowledges she has received no allowance from me. Can your lordships believe, that if I could have been weak enough to have instituted the suit, with a conviction in my own mind of a real lawful marriage between Mr. Hervey and myself, that I would not, at any expence, have taken care to have put that woman out of the way? But my lords, I trust that your lordships will be perfectly satisfied, that great part of the evidence of this woman is made for the purpose of the prosecution. Though she has denied she has any expectation from the event, or ever declared so, yet it will be proved to your lordships that her future provision (as she has declared) depends upon it: and notwithstanding she has now brought herself up to swear that she heard the ceremony of marriage performed, yet it will be proved that she has declared she did not hear it. And it will be further proved to your lordships, that Mr. Hervey was extremely solicitous to have established a legal marriage with me for the purpose mentioned by Mr. Hawkins,

and that this woman was actually applied to, and declared to Mr. Hervey's solicitor, that her memory was impaired, and that she had not any recollection of it, which was the reason why she was not called as a witness.

My lords, if she is thus contradicted in these particulars, and appears under the influence of expectations from this event of the prosecution, your lordships will not credit her evidence, that the complete ceremony of marriage was performed, or any other particulars which rest upon her evidence.

My lords, with respect to what your lordships have heard from the witnesses, of my desire at times to be considered as the wife of Mr. Hervey, your lordships in your candour will naturally account for that circumstance, after the unfortunate connection that had subsisted between us.

My lords, I call God Almighty, the searcher of hearts, to witness that at the time of my marriage with the Duke of Kingston, I had, myself, the most perfect conviction that it was lawful. That noble duke, to whom every passage of my life had been disclosed, and whose affection for me, as well as regard for his own honour, would never have suffered him to have married me, had he not as well as myself received the most solemn assurances from Dr. Collier, that the sentence, which had been pronounced in the Ecclesiastical Court, was absolutely final and conclusive, and that I was perfectly at liberty to marry any other person. If therefore I have offended against the letter of the act, I have so offended without criminal intention. Where such intention does not exist, your lordships' justice and humanity will tell you that there can be no crime; and your lordships, looking on my distressed situation with an indulgent eye, will pity me as an unfortunate woman, deceived and misled by erroneous notions of law, of the propriety of which it was impossible for me to judge.

My lords, before I take my leave, permit me to express my warm and grateful sense of the candour and indulgence of your lordships, which have given me the firmest confidence that I shall not be deemed criminal by your lordships for an act, in which I had not the least suspicion that there was any thing illegal or immoral.

My lords, I have lost, or mislaid, a paper, where I had put together my ideas to present to your lordships. The purport was to tell your lordships, that my advocate Dr. Collier, who instituted this suit of jactitation, is now in a dangerous state of health. He has had two physi-

cians to attend him, by my order, yesterday, to insist and order his attendance to acquaint your lordships, that I acted entirely under his directions; that it was by his advice I married his Grace the Duke of Kingston, assuring me that it was lawful; that he had the honour of going to his Grace the Archbishop of Canterbury to obtain a licence, and to explain every part that regarded the cause: that his grace was so just, so pious, and so good as to take time to consider whether he would grant us a special licence for the marriage. After mature consideration and consultation with great and honourable persons in the law, he returned the license to Dr. Collier, with full permission for our marriage. Dr. Collier was present at the marriage; Dr. Collier signed the register of St. George's Church. Mr. La Roche has frequently attended the Duke of Kingston to Dr. Collier, where he heard him consult the doctor if the marriage would be lawful, he said it would, and never could be controverted.

Under these circumstances, I wished to bring my advocate forth to protect me. He, my lords, is willing to make an affidavit, to be examined by the enemy's counsel, to submit to any thing that your lordships can command, willing to justify his conduct; but he has had the misfortune, my lords, ever since the latter end of August, or the first week in September, I do not well remember which, to have been in bed. I apprehended, from seeing him yesterday, with your lordships' indulgence, that he had the Saint Anthony's-fire: but my physicians, who have been with him, can give a better account, if you will permit them, of the state of his health, that your lordships may not imagine that he keeps back, or that I am afraid to produce him. If it is not to avail me in law, I ask no favour: but I petition your lordships, and would upon my knees, that you will hear the evidence that he will give to the justification of my honour, though it does not avail me in law.

My lords, I do request that Dr. Collier may be examined in the strictest manner, and by every enemy that I have in the world. My physicians saw him last night; and they can, previous to his examination, inform your lordships in what state they apprehended him to be.

Lord *Ravensworth*. After what I have just heard from the prisoner at the bar, it is impossible not to feel equally with the rest of your lordships: and, my lords, what came last from the prisoner at the bar I own strikes me with the necessity of permission being given, if it could be done, to have Dr. Collier examined.

Lord *Camden*. I am really, my lords, at some loss to know, upon what ground it is your lordships stand at this moment with respect to the evidence of Dr. Collier. I do not understand yet, that Dr. Collier is called by the prisoner or by her counsel. I do not yet understand, that in consideration of the infirm state of his health, the prisoner or her counsel do require from your lordships any specific particular mode of examination, by which your lordships might be apprised of the substance of his evidence. I understand neither of these things to be moved to your lordships: if they were, matter of debate on either one or the other might probably arise; and then this is not the place for your lordships to enter into a consideration of it. With regard to the case itself, which the noble prisoner has made for one of her most material witnesses, it is undoubtedly such as would touch your lordships with a proper degree of compassion as far as the justice of the Court can go, and your feelings are able to indulge; beyond that it is impossible, let your lordships' desire be what it may, for you to transgress the law of the land, or to go beyond the rules prescribed by those laws, is impossible. A witness so infirm that he is totally incapable of attendance, your lordships, if you are to lose his evidence, will lament the want of it: justice cannot be so perfect and complete without the examination of a necessary and material witness, as if you had it. But if a greater evil than that should happen, (and it has frequently happened in the course of causes), which is death itself, which shuts up the mouth in everlasting silence, if this should arrest the witness before he could be produced, his evidence is lost for ever. If this witness should by his infirmity be totally unable to attend whilst this cause lasts, I am sorry to say your lordships must go on without him; it is impossible to wait until that witness can be produced. While the cause lasts (and your lordships will precipitate nothing in the course of justice) if he can be brought, you will make every accommodation to receive him, you will take every means in your power to make the attendance safe and convenient for him, you will receive him in any part of the cause, even at the last moment, before it is concluded. So far your lordships may go; beyond that, I doubt, you cannot. But, my lords, I have now been speaking without a question, without a motion, without any thing demanded of your lordships by the prisoner or by her counsel.

Lord *Ravensworth*. I would beg leave to put it to those noble lords who sit upon the bench, whether there ever was an instance in a criminal cause of a witness being examined otherwise than in open court?

Lord *Camden*. The noble lord is pleased to put a question particularly

pointed to such of your lordships as have been educated in the profession of the law, to know, whether any instance can be produced where a witness, not attending at your bar to be examined *vivâ voce*, has been permitted by commission, by delegation, or any other manner whatever, to give his evidence out of court, so that that evidence so given out of court might be reported into the court, and stand as evidence on the trial?' I presume that is the point, in which the noble lord desires to know if any precedent can be produced. When that question is asked, and the answer is to be a negative, your lordships easily conceive how much the modesty of the answer is to be affected, if he gives a full, a positive, and a round negative to that question; I therefore beg to be understood as confining the answer to my own knowledge. Within the course of my own practice and experience, I never did know of such an instance; I never have to the best of my memory read of such an instance: I never heard of such an instance: I speak in the presence of those who are better versed in this kind of knowledge than myself: I speak before the law of the land, which is now upon your lordships' wool-sacks. My lords, if any such case occurs to them, it will be easy for your lordships to apply to them; I know of no such; and I might add briefly one word on the subject, I hope I shall never see such an instance so long as I live in this world. What, my lords! to give up, and to part with, that noble privilege in the mode of open trial, of examination of witnesses *vivâ voce* at your bar, with a cross examination to confront them in the eye of the world, and to transfer that to a private chamber on a few written interrogatories! I go too far in arguing the point: I never knew an instance. I am in the judgment of the House, and of the learned judges that hear me; if there ever was an instance, let it be produced, and in God's name let justice be done.

Her grace's evidence consisted merely of some witnesses who endeavoured to shake Mrs. Cradock's credibility; of a Dr. Warren who testified to the illness that caused Dr. Collier's absence; and of a Mr. Laroche, who stated that he himself had heard Dr. Collier assure both parties, the late Duke of Kingston, and the lady at the bar, that after the sentence in the spiritual court, they were perfectly free to marry, and might marry any one they pleased.

The lords all found the Duchess guilty, one lord, the Duke of Newcastle, only excepted, who said that she was guilty "erroneously, but not intentionally."

The duchess then delivered a paper wherein her grace prayed the benefit of the peerage according to the statutes; and after a long argument on the part of the counsel, and an adjournment, and consultation on the part of the lords, the Lord High Steward addressed the prisoner to the following effect:

"Madam, the lords have considered of the prayer you have made, to have the benefit of the statutes, and the lords allow it you.

"But, Madam, let me add, that although very little punishment, or none, can now be inflicted, the feelings of your own conscience will supply that defect. And let me give you this information likewise, that you can never have the like benefit a second time, but another offence of the same kind will be capital. Madam, you are discharged, paying your fees."

The lady appeared to be perfectly composed during this long and important trial; but when his grace had thus spoken she fainted, and was carried out of court. The trial ended on the 22nd of April, 1776. The Duchess subsequently resided on the continent, and about twenty years after, died in Russia.

THE TRIAL OF EARL FERRERS FOR MURDER.

In the whole annals of our criminal jurisprudence no trial perhaps has excited more lasting interest, and is more generally known, than that of the unfortunate Lawrence Shirley, fourth Earl Ferrers. We say unfortunate, because there seems little doubt, at the present day, that the noble offender committed the deed whilst in a state of insanity. Indeed, the very crime itself, and the mode of its accomplishment could have scarcely been other than the work of a madman. The evidence adduced on the part of his lordship, would certainly now have established a case of lunacy sufficient to have saved the murderer from the extreme penalty of the law. The rejection of his lordship's plea of insanity may, even at the time, have been caused by his examining the witnesses himself with so much apparent sense and skill, and by his own evident disinclination to rely on such a defence. The excitement caused by the trial and execution of Earl Ferrers, is to be easily accounted for. The almost unparalleled sight of a peer of this realm brought to the bar of justice, and publicly put to death on other than political grounds, made a deep and lasting impression; and, though we may quarrel with the verdict, we cannot but admire the stern rectitude of a government which, once persuaded of the sanity of the culprit, would allow no consideration of rank or station to intervene in the vindication of the law. George II, when applied to, to alter the punishment from hanging to beheading, is reported to have said "No, he has done the deed of the bad man, and he shall die the death of the bad man." The Earl's fate may be truly regarded as an example of the impartial majesty of the English law. But to proceed to Lord Ferrers' personal history.

Lawrence Shirley, fourth Earl Ferrers, the subject of this trial, was

the grandson of Robert the first Earl, through his fourth son Lawrence who married Anne, fourth daughter of Sir Walter Clarges, baronet, and whose three eldest sons, though he did not succeed to the title himself, were successively fourth, fifth, and sixth Earls Ferrers. The family of Shirley, Lords Ferrers, is one of high antiquity and honour, dating its eminence back to the time of the Normans. The first Earl Ferrers had, while Sir Robert Shirley, and prior to the creation of his Earldom, become Lord Ferrers, of Chartley, Bourchier, and Louvaine, King Charles II having terminated the abeyance of those baronies in his favour, as one of the descendants of the famous Robert Devereux, Earl of Essex. His grandson, the unhappy Lord Ferrers of the trial, was born in August, 1720; he married the 16th Sept. 1752, Mary, youngest daughter of Amos Meredith, Esq., son and heir of Sir William Meredith, baronet, of Henbury; but his lordship's irrational and cruel usage of this lady, who was remarkable for her mild disposition, obliged her to apply to parliament for redress; and accordingly, an act was passed by which they were separated. She had no issue by the Earl, and after his death, she was again married to Lord Frederick Campbell, brother to John, fourth Duke of Argyll.

The trial of Lord Ferrers took place in Westminster Hall; it commenced on the 16th April, 1760, and lasted three days; the Lord Keeper, Lord Henley, acting as Lord High Steward.

After the usual preliminary formalities, the Earl was brought to the bar by the deputy governor of the Tower, having the axe carried before him by the gentleman gaoler, who stood with it on the left hand of the prisoner, with the edge turned from him. The prisoner, when he approached the bar, made three reverences, and then fell upon his knees at the bar.

L. H. S. Your lordship may rise.

The prisoner rose up, and bowed to his Grace the Lord High Steward, and to the House of Peers; the compliment was returned him by his Grace and the Lords.

Proclamation having been made again for silence, the Lord High Steward spoke to the prisoner as follows:—

Lawrence Earl Ferrers; you are brought to this bar to receive your trial upon a charge of the murder of John Johnson; an accusation, with respect to the crime, and the persons who make it (the grand jury of the county of Leicester, the place of your lordship's residence), of the most solemn and serious nature.

Yet my lord, you may consider it but as an accusation; for the greatest or meanest subject of this kingdom (such is the tenderness of our law) cannot be convicted capitally, but by a charge made by twelve good and lawful men, and a verdict found by the same number of his equals at the least.

My lord, in this period of the proceedings, while your lordship stands only as accused, I touch but gently on the offence charged upon your lordship; yet, for your own sake, it behoves me strongly to mark the nature of the judicature before which you now appear.

It is a happiness resulting from your lordship's birth and the constitution of this country, that your lordship is now to be tried by your peers in full parliament: What greater consolation can be suggested to a person in your unhappy circumstances, than to be reminded, that you are to be tried by a set of judges, whose sagacity and penetration no material circumstances in evidence can escape, and whose justice nothing can influence or pervert?

This consideration, if your lordship is conscious of innocence, must free your mind from any perturbations that the solemnity of such a trial might excite; it will render the charge, heavy as it is, unembarrassing, and leave your lordship firm and composed, to avail yourself of every mode of defence, that the most equal and humane laws admit of.

Your lordship, pursuant to the course of this judicature, hath been furnished with a copy of the indictment, and hath had your own counsel assigned; you are therefore enabled to make such defence as is most for your benefit and advantage; if your lordship shall put yourself on trial, you must be assured to meet with nothing but justice, candour, and impartiality.

Before I conclude, I am, by command of the House, to acquaint your lordship, and all other persons who have occasion to speak to the Court, during the trial, that they are to address themselves to the Lords in general, and not to any lord in particular.

Lawrence Earl Ferrers, your lordship will do well to give attention, while you are arraigned on your indictment.

Here Earl Ferrers was arraigned, in the form of the indictment, against him, by the Clerk of the Crown in the King's-bench.

The case for the crown was most ably stated by the Attorney General, Charles Pratt, afterwards Lord Camden, Chief Justice of the Common Pleas, and Lord Chancellor. His speech, which is as follows, has been regarded as a model for an address on the part of the prosecution.

Mr. *Attorney General.* "May it please your lordships, it becomes my duty to open to your lordships the facts and circumstances of this case, out of which your lordships are to collect and find the crime that is charged in this indictment.

The noble prisoner stands here arraigned before your lordships for that odious offence, malicious and deliberate murder. There cannot be a crime in human society that deserves more to be punished, or more strictly to be enquired after; and therefore it is, that his Majesty, the great executive hand of justice in this kingdom, has promoted this inquiry, whereby all men may see, that in the case of murder his Majesty makes no difference between the greatest and meanest of his subjects.

The prisoner has a right, from his quality, to the privilege of being tried before this noble tribunal; if he is innocent, he has the greatest reason to be comforted, that your lordships are his judges; for that nobleness and humanity, which prompt you naturally to incline towards mercy, will strongly exert themselves in the protection of innocence. But, on the other hand, if the prisoner is really guilty of the charge, his case is truly deplorable; because your minds cannot be deceived by the false colouring of rhetoric, nor your zeal for justice perverted by any unmanly compassion.

This impartial disposition in your lordships call upon the prosecutors, to observe a conduct worthy of this noble assembly; not to enlarge or aggravate any part, or advance a step beyond their instructions; but barely to state the naked facts, in order that, by that means, your lordships may be enabled the better to attend to the witnesses when they are called, to examine and cross-examine, and sift out the truth with more accuracy.

My lords, as I never thought it my duty in any case to attempt at eloquence, where a prisoner stood upon trial for his life; much less shall I think myself justified in doing it before your lordships; give me leave therefore to proceed to a narration of the facts.

My lords, the deceased person, Mr. Johnson, I find to have been employed by the Ferrers family almost during the whole course of his life: he was taken into their service in his youth, and continued in it unfortunately to the time of his death.

At the time a bill was passed by your lordships, about two years ago, to separate Lord Ferrers from his lady, Mr. Johnson was appointed receiver of his lordship's estates. At that time his lordship seems

to have entertained a good opinion of him, because I am told he was appointed receiver at his lordship's own nomination; but, very soon after he became invested with this trust, when the noble lord found there was no possible method, by any temptation whatever, to prevail on Mr. Johnson to break that trust, his lordship's mind grew to be alienated towards him, and his former friendship was converted into hatred.

The first instance of his lordship's malice, that will be produced, will be his giving him notice to quit a beneficial farm that Mr. Johnson had obtained a promise of from the Earl, or his relations, before he was appointed receiver; but when it appeared that the trustees had made good the promise, and had granted him a lease, my lord was obliged to desist from that attempt.

When he found it was impossible to remove him from the farm, his resentment against Mr. Johnson increased, and he took at last a determined resolution within himself to commit the horrid fact for which he now stands arraigned.

My lords, I find several causes assigned by the prisoner for this indignation expressed against the deceased; he charged him with having colluded secretly with his adversaries, with being in the interest of those he was pleased to call his enemies, and instrumental in procuring the Act of Parliament: whether these charges were justly founded or not, is totally immaterial; such as they were, he had conceived them. His lordship, who best knew the malice of his own heart, has confessed that he harboured these suspicions.

Another thing he suspected was, that, in confederacy with Mr. Burslem and Mr. Curzon, he agreed to disappoint his lordship, in regard to a certain contract for coal mines. These notions, though void of truth, had so poisoned his lordship's mind, that he was determined at last to gratify his revenge by murder.

This determination being once settled and fixed in his mind, your lordships will see, with what art and deliberation it was pursued: notwithstanding these seeming causes of disgust, he dissembled all appearance of ill-will or resentment; his countenance towards the deceased for some months seemed greatly to be changed, and his behaviour was affable and good-humoured.

The poor man, deluded with these appearances, was brought to believe he was in no danger, and that he might safely trust himself alone with his lordship.

Matters being thus prepared, on Sunday, the 13th January, the pri-

soner made an appointment to Mr. Johnson to come to him on the Friday following.

His lordship, though the appointment was five or six days before, remembered it perfectly; nay, he remembered the very hour he was to come, and took his measures accordingly; for your lordships will find, that in order to clear the house, Mrs. Clifford, a woman who lives with his lordship, and four children, were directed by him, at three o'clock precisely, to absent themselves; they were ordered to walk out to Mrs. Clifford's father, about two miles from my lord's house, and not to return till five, or half an hour after five.

The two men-servants likewise, the only servants of that sex then residing with them, were contrived to be sent out of the way; so that when Mr. Johnson repaired to Stanton, my lord's house, at three o'clock, there was no person in the house, except his lordship, and three maid-servants.

Mr. Johnson, when he came to the house, rapt at the door, and was received by his lordship, and directed to wait some time in the still room; then his lordship ordered him into the parlour, where they both entered together, and the door was immediately locked on the inside.

What passed in that interval, between the time of Mr. Johnson's first going in, and the time of his being shot, can only be now known to your lordships by the noble Earl's confession, which has been very ample indeed upon the present occasion.

After Mr. Johnson had been there the best part of an hour, one of the maids in the kitchen, hearing some high words in the parlour, went to the door to see if she could discover what was doing; she listened, and heard my lord, as she was at the kitchen door, say, down upon your knees; your time is come; you must die; and presently after heard a pistol go off; upon that, she removed from the kitchen, and retired to another part of the house; for she did not care to venture into his lordship's presence.

Though it appeared, afterwards, that Mr. Johnson had then received that wound of which he died, he did not then immediately drop; he arose, and was able to walk.

Just then, my Lord Ferrers, as he confessed afterwards, felt a few momentary touches of compassion: he permitted Mr. Johnson to be led up stairs to bed, till better assistance could be called; he suffered a surgeon to be sent for, nay, the very surgeon that Mr. Johnson himself had desired; and Mr. Johnson's children, by his lordship's order, were acquainted with the accident, and sent for to see him.

Mr. Johnson's daughter was the first person that came; she met the noble lord, and the first greeting she had from him was, that he had shot her father; and that he had done it on purpose, and deliberately. Mrs. Clifford, who had been apprized of this accident by the servants, came not long after; and, in an hour and a half, or two hours, Mr. Kirkland, the surgeon, who was from home when the servant was dispatched, and at a neighbouring village, hastened with the best expedition he could make, to Stanton. When he came to Stanton he met my lord in the passage.

Here your lordship will observe, that the noble lord's conduct and behaviour, from this time to the time that Mr. Johnson was removed to his own house, seemed all along calculated for his escape; and that the only anxiety he expressed was the dread of being seized, and brought to punishment in case Mr. Johnson should die.

Upon Mr. Kirkland's first appearance, my lord had told him, that he had shot Mr. Johnson, and that he had done it coolly; he desired he might not be seized till it was known with certainty whether Mr. Johnson would die or not; and threatened, that if any person attempted to seize him, he would shoot them. Mr. Kirkland told him, he would take care nobody should meddle with him.

Mr. Kirkland was then brought up to Mr. Johnson, who was upon the bed; the surgeon examined the wound, and found that the ball had penetrated a little below the ribs on the left side; he took an instrument in his hand, called a director, in order to probe the wound: here my lord interrupted him, and said, You need not be at that trouble; pass your instrument downwards; I, when I shot off the pistol, directed it that way; and Mr. Kirkland found this, upon examination, to be true; the ball had not passed through the body, but remained lodged in the cavities of the abdomen.

When my lord found that the ball was in the body, he grew uneasy; for he was apprehensive that the ball, if it remained there, might prove fatal; he asked Mr. Kirkland, if it could be extracted; Mr. Kirkland told him, from what he observed, it would be impracticable to extract the ball: but to give him better hopes he told him, that many persons had lived a long while after they had been shot, though the ball had remained within them.

Presently after this, the surgeon went down stairs to prepare a fomentation, and soon after returned: when he came back into the room, Mr. Johnson complained of the strangury. This alarmed his lordship again:

he then asked Mr. Kirkland, what would be the consequence, if the bladder or kidneys were hurt? Mr. Kirkland having laid down his rule of conduct, wherein his prudence deserves to be commended, answered, that though the bladder should be wounded, or the kidneys hurt, there had been many cures performed upon such like wounds.

This made his lordship tolerably easy: he then began to be in better spirits, which, I am sorry to say, at that time were somewhat heightened with liquor: for, although he was cool and fresh when he did the fact, yet the moment it was done, he began to drink, and continued drinking, at times, till twelve o'clock at night: this liquor, however, only contributed to raise his spirits, without disordering his understanding; for he appeared to be complete master of himself the whole day.

After Mr. Kirkland had given him so much encouragement, they together went down to the still room; and now his lordship verily believing that Mr. Johnson would recover, he grew less cautious in avowing the deliberation with which he did the fact, and declaring all the circumstances that attended it.

And here, because I will not wrong the noble lord, by adding a single letter to my brief, your lordships shall hear his confession, from thence, in his own words.

"Kirkland, says he, I believe Johnson is more frightened than hurt; my intention was to have shot him dead; but, finding that he did not fall at the first shot, I intended to have shot him again, but the pain he complained of made me forbear; there nature did take place, in opposition to the resolution I had formed. I desire you will take care of him; for it would be cruel not to give him ease, now I have spared his life.

"When you speak of this afterwards, do not say (though I desire he may be eased of his pain) that I repented of what I have done: I am not sorry for it; it was not done without consideration; I own it was premeditated; I had, some time before, charged a pistol for the purpose, being determined to kill him, for he is a villain, and deserves death; but as he is not dead, I desire you will not suffer my being seized; for, if he dies, I will go and surrender myself to the House of Lords; I have enough to justify the action; they will not excuse me, but it will satisfy my own conscience: but be sure you don't go in the morning without letting me see you, that I may know if he is likely to recover or not; I will get up at any time; at four o'clock in the morning."

To this very strange and horrid declaration Mr. Kirkland answered, by promising his lordship, that he would certainly give him the first

intelligence touching Mr. Johnson's condition; and, as it was proper, for very prudent reasons, as well with respect to himself as Mr. Johnson, to dissemble with his lordship, he proceeded further, and told him, that he would give a favourable account of this matter. The noble lord then asked him, what he would say if he was called upon; he told him he would say, that though Johnson was shot, that he was in a fair way of recovery. His lordship asked Mr. Kirkland, if he would make oath of that? He said, yes.

Mr. Kirkland then went to see Mr. Johnson again, and found him better; they then went to supper, and, during the time they were at supper, his lordship mentioned several other particulars: he said, he was astonished, that the bullet should remain in his body; for, says he, I have made a trial with this pistol, and it pierced through a board an inch and a half thick; I am astonished it did not pass through his body; I took good aim, and I held the pistol in this manner; and then he shewed Mr. Kirkland the manner of his holding the pistol.

He also declared the grounds, and motives for his killing Johnson; that he had been a villain; that he was in the interest of his enemies; that he had joined with those who had injured him, and taken away his estate, by an act of parliament; that he had colluded with Mr. Curzon and Mr. Burslem, with respect to the coal contract.

Another thing he mentioned with respect to the farm; says he, "I have long wanted to drive Johnson out of the farm; if he recovers, he will go back to Cheshire, where he came from." Mr. Kirkland said, no doubt but this accident would drive him home again.

After they had supped, Mrs. Clifford came into the room, and she proposed, that Mr. Johnson should be removed to the Lount, which is the name of Mr. Johnson's house, and lies about a mile from Stanton; his lordship refused to consent to that, not because he thought Mr. Johnson might be hurt by the removal, but, to use his own words, because he would have him under his own roof, to plague the villain.

When the supper was over, they returned back to Mr. Johnson, who was then under the greatest uneasiness; he was restless, and the complaint of strangury increased: then my lord was alarmed again; he enquired of the surgeon what would be the consequence, in case the guts were shot through? Mr. Kirkland gave him a favourable answer, that revived his spirits; he went out of the room, and invited Mr. Kirkland to take a bottle of port; they then drank together, and during that time, the same, or the like expressions were repeated. I will not trouble

your lordships with them again; but he all along declared, he did not do it hastily, but coolly and deliberately: that his intention was to have killed him: and that the reason why he did it at the time was, because he would not sign a paper of recantation, acknowledging all the injuries he had done his lordship.

They then again returned to Mr. Johnson, after they had drank out the bottle: whether the liquor was prevalent or not, I don't know; your lordships will observe what followed: his behaviour to the poor man, though he lay there under the surgeon's hands, was totally changed, and his resentment grew outrageous; my lord again attacked him upon the same charge as before, compelled him to acknowledge before all the company (of which his daughter was one) that he was a villain; nay, he was about to drag him out of bed upon the floor, which would hardly have been prevented, if Mr. Johnson, who was tutored by a wink from Mr. Kirkland, had not said, I do confess I am a villain: my lord at last went to bed; but, before he departed, he said with great earnestness to Mr. Kirkland, may I rely upon you? Are you sure there is no danger? May I go to bed in safety? Mr. Kirkland said, yes, your lordship may. When his lordship was gone, poor Johnson begged to be removed to his own house. Mr. Kirkland wished it as much; for, besides that he could not have that free access to his patient that was necessary, if he was to remain there, he thought himself in the utmost peril. My lord had confessed too much, and Mr. Kirkland too little; so that if Mr. Johnson had died there, no man in Mr. Kirkland's situation would have wished to have been alone with his lordship, considering the dangerous conversation that had passed between them.

Mr. Kirkland, therefore, immediately went to the Lount, procured six or seven armed men, and came back by two o'clock in the morning. They removed Mr. Johnson, put him into a great chair, and wrapped him up in blankets, and so conveyed him home. Towards morning the poor man's symptoms grew worse, and Mr. Kirkland then went away.

Mr. Johnson lay languishing till seven or eight in the morning, and then died.

In the mean time Mr. Kirkland had procured a number of armed men to go down to Stanton, and to seize his lordship. When they came there, my lord was just out of bed; he had his garters in his hand, and was seen passing towards the stable. The horses were all saddled, and everything got in readiness for his escape.

Mr. Springthorpe advanced towards him; and when his lordship found he was really to be attacked, he fled back to his house, and there stood a siege of four or five hours. While he was thus beset, he appeared at the garret windows, and thinking himself secure in that place, he began to parley, and asked, what they wanted with him? They told him, Mr. Johnson was dead, and that they were come to secure him. He said, he knew that was false; for Mr. Johnson was not dead: that he wished it might be true: that he would not believe it, unless Mr. Kirkland would declare it: that he would pay no regard to any body else. He did not think fit to surrender; but continued in the house, till he thought he had an opportunity of escaping through the garden. He was there discovered by one Cutler, a collier, who was a bold man, and determined to take him: he marched up to him; and though his lordship was armed with a blunderbuss, two or three pistols, and a dagger, he submitted to the collier's taking him, without making the least resistance: and the moment he was in custody, he declared he gloried in the fact; and again declared, that he intended to kill Johnson. He was then carried to Mr. Kinsey's house, and remained there till after the coroner sat upon the body.

I must mention to your lordships, that upon Mr. Hall, a clergyman, being introduced to him, he told him, he knew his duty as well as he or any other clergyman: that the fact he had committed was coolly and deliberately done. So that your lordships see his declarations were consistent and uniform, from the beginning to the end.

I shall neither aggravate nor observe.

These are the circumstances which attended this horrid murder. I have opened them faithfully from my instructions. The case is rather stronger than I have made it.

The witnesses are to acquaint your lordships, whether I have opened the case truly. If the evidence comes out as I have represented it to your lordships, then your lordships' sentence must be agreeable to law. The noble Earl at the bar must be found guilty.

If he has any defence, God forbid that he should not have a fair opportunity of making it. Let him be heard with patience. The prosecutors will be as glad as your lordships to find him innocent.

The evidence is to determine; and upon that evidence we shall leave it."

The entire evidence was in accordance with Mr. Attorney's narration, and therefore little of it need be here given.

Earl Ferrers' own account of the actual murder was reported by the

medical witness, Mr. Thomas Kirkland, a surgeon at Ashby-de-la-Zouch, who also described the last moments of Johnson, the victim, in the following examination:—

Mr. Attorney. Did any discourse pass between you relating to their seizure of my lord's person?—*Mr. Kirkland.* My lord did desire that I would take care he was not seized, and I promised him I would.

Did you tell him how you meant to represent it?—My lord asked me, what I should say upon the occasion, if I was called upon? I told his lordship I should say, that, though Mr. Johnson was shot, yet there was a great probability of his recovering; and that I thought there was no necessity of seizing his lordship. His lordship then asked me, if I would make oath of that before a justice of the peace, if I was called upon? I said, Yes.

Where was this? and about what part of the night did the last conversation pass?—It was in the parlour.

What time was it? Was it an hour before supper?—I think this was before supper; but it was repeated before and after supper.

Did my lord, in this discourse, say any thing relating to Mr. Johnson? —He told me, that Mr. Johnson had long been a villain to him. He said, he began his villainy in 1753; that he assisted in procuring the act of parliament; that he was in the interest of his enemies; that, on Mr. Johnson s first coming there in the afternoon, he ordered him to settle an account. He then told him, Johnson, you have been a villain to me; if you don't sign a paper, confessing all your villainy, I'll shoot you. My lord told me Johnson would not sign one. Therefore, says he, I bid him kneel down on his knees to ask my pardon. I said, Johnson, if you have any thing to say, speak quickly. Then, said he, I fired at him. I know he did not think I would have shot him; but I was determined to do it. I was quite cool. I took aim; for I always aim with a pistol in this manner.

Did any thing pass in reference to the farm?—My lord told me he had long wanted to drive Johnson out of his farm; and that he imagined, after he recovered, he would go into Cheshire, from whence he came, and give him no more disturbance. He said he had long intended to shoot him: that the chief reason he did it at this time was, an affair between Mr. Curzon, Mr. Burslem, and his lordship. But the greatest part of this discourse was at the time that my lord was full of liquor.

Was he so full of liquor as to be deprived of his understanding?—I think not; he seemed to understand very well what he did.

Was he in liquor when you first saw him?—Yes; not much.

Did he continue drinking during the time you saw him?—He was drinking porter; they said it was porter.

Did you go to Mr. Johnson again?—Yes; after supper I went up stairs to Mr. Johnson; nothing material passed; but my lord enquired what I thought of Mr. Johnson; and upon my setting things in the light I thought I should, my lord seemed very well satisfied.

Was any thing said about the bowels or guts?—My lord asked, if the bowels were wounded, what would be the consequence? I said, some had had wounds in their bowels and recovered.

There was an expression used, that the bullet was lodged in the abdomen; was that your's or my lord's expression?—It was my expression.

Did you and my lord sit together in the evening?—Yes.

Was any wine brought?—Yes; Mrs. Clifford brought a bottle of wine, and then his lordship again repeated, that he had shot Johnson, and that he intended it.

Was there any thing passed between you relative to my lord's circumstances?—A little before he went to bed, before I went to Mr. Johnson the last time, my lord said, Kirkland, I know you can set this affair in such a light, that I shall not be seized if you will; I owe you a bill, you may have some of your money now, and the rest when you want it; I told his lordship I did not want money, I should be glad to receive it when it was most convenient to him.

Did you afterwards see my lord and Mr. Johnson together?—Yes.

What passed?—My lord went up to the bedside, and spoke it temperately; Johnson, you know you have been a villain to me; Mr. Johnson made no answer, but desired my lord to let him alone at that time: my lord kept calling of him villain; his passion rose, and he began to pull the bed-clothes, and said, Have you not been a villain? Mr. Johnson said, My lord, I may have been wrong as well as others: upon this, my lord run up in a violent passion to the bed-side, I thought he would have struck him; but upon Mr. Johnson's declaring he might have been a villain to his lordship, my lord went to the fire-side.

How came Mr. Johnson to make that answer?—I winked at him, and he made the answer.

Was Miss Johnson in the room?—Yes; my lord went to her, after he had abused her father, and said, Though he has been a villain to me, I promise you before Kirkland, who I desire to be a witness, that I will take care of your family, if you do not prosecute.

Did my lord go out of the room?—Yes; he went down stairs; he

sent for me, and told me, he was afraid he had made Miss Johnson uneasy; he desired I would tell her, he would be her friend: we came up stairs together; his lordship asked at the top of the stairs, whether I thought Mr. Johnson would recover: I replied, Yes; he said, then I may go to bed in safety; he went to bed directly,

What passed after?—The first thing I did I went to Mr. Johnson, who desired, for God's sake, that I would remove him; while we were talking, I heard my lord open the door, and call up his pointer: Mr. Johnson was a good deal alarmed at it, fearing my lord should come again; but my lord shut the door; then he again entreated me to remove him.

Was any proposal made to remove him before that?—Yes; Mrs. Clifford came down before that into the still-room, and said, Cannot Johnson be removed? My lord replied, No, he shall not be removed, till he be either better or dead: and some time after that he said, he was glad he had him in the house, that he could plague the rascal; or some such words.

Why did you propose to remove him?—I thought it prudent for many reasons to remove him; I imagined, Mr. Johnson would die; and if my lord came and found him dying, his resentment would rise against me; besides, Mr. Johnson was in a good deal of apprehension of being again shot; I really apprehended he might die through fear, for he was a man of a very weak constitution; upon this I went to the Lount and got a parcel of fellows, and placed Mr. Johnson in an easy chair, and carried him upon poles to the Lount, where he got without being much fatigued.

Did you apprehend that the moving would be prejudicial to him, considering the condition he was in?—It is impossible to say it might not; but there was much more danger in leaving him at Stanton; and he expressed satisfaction on my removing him: when he came there, he desired he might be removed from one room where he was, into another; for he said, my lord might come and shoot him there, the window was facing the bed; I told him, he might make himself easy, I would place a sentry at each door.

At what time was Mr. Johnson removed?—I believe about two o'clock in the morning; I am not quite certain of the hour.

How long did he live after that?—He lived, as I was informed, till about nine; I did not leave him till seven o'clock.

In what condition was he when you left him?—Weak and low, and cold in the extremities.

What was your judgment about him?—That he would be dead; he thought so himself.

What happened after he was dead?—Nothing more than my examining the body.

What did you do upon that?—I examined it the next day when the coroner's inquest was taken.

Did you give an account of the wound?—The ball had passed just under the lowest rib, on the left side, through one of the guts, and through a bone we call the "os inominatum," and lodged in the bone called the "os sacrum."

Do you apprehend that Mr. Johnson died of that wound?—I do; I am clear in it.

A Mr. Springthorpe, examined by Mr. *Gould*, thus related the seizure of Lord Ferrers.

Was you present at the time of taking Lord Ferrers?—*Springthorpe.* I was.

What day was it?—On Saturday morning.

What time in the morning?—I believe it was between ten and eleven o'clock.

Had you a multitude of people with you?—The first part of the time I had not; but before he was taken there were a great many.

Was you armed?—I had a pistol I took from Mr. Burslem's.

Where did you go first?—I went to see Mr. Johnson; he was my friend, and I found he was dead. Mr. Burslem desired I would go and help to take Lord Ferrers: I condescended to do it. When I came to the hall yard, my lord in a few minutes came; he seemed to be going to the stable, with his stockings down, and his garters in his hands; his lordship seeing me demanded to know what I wanted. I presented my pistol to his lordship, and I said it was he I wanted, and I would have him; he put his hand, whether he was going to put his garters into his pocket, or to pull out a pistol, I cannot say; but he suddenly run into the house. I never saw more of him for two hours; in about two hours he came to the garret window; I went under the window; he called; I asked him what he wanted; he said, How is Johnson? I said he was dead; he said, You are a lying scoundrel, God damn you. I told him he was dead; he said, I will not believe it till Kirkland tells me so. I said he was dead; he said, Then disperse the people, and I will go and surrender: let the people in, and let them have some victuals and drink. I told him I did not come for victuals, but for him, and I would have him. He went away from the window swearing he would not be taken. Two hours after that there was a report that he was upon the bowling-green;

I was at this part of the house: I run there, and, by the time I got there, I saw two colliers had hold of his lordship. I said, I would take care nobody should hurt him. I took from a man that had hold of him, a pistol and a powder-horn; I shot the pistol off, and it made a great impression against the stones. I heard my lord say, he had shot a villain and a scoundrel, and, clapping his hand upon his bosom, he said, I glory in his death. That is all I know of the matter.

Lord Ferrers being called upon for his defence, applied for an adjournment to the following day: to this Lord Mansfield objected, unless the Earl would open the nature of his defence, or give some reason why he was not then prepared to go on. This not being done, the Peers returned to the Chamber of Parliament to debate the question, and on their coming back into Westminster Hall, the Lord High Steward announced to Lord Ferrers that he was forthwith to proceed with his defence.

Lord Ferrers then addressed the Court as follows:—

Earl *Ferrers*. "My lords, the kind of defence I mentioned to your lordships before, I really don't know how myself to enter upon; it is what my family have considered for me, and they have engaged all the evidence that are to be examined upon this unhappy occasion, who I really have not seen; I do not well know what they have to say: I should, therefore, hope your lordships will give me all the assistance that is possible in their examination.

My lords, I believe that what I have already mentioned to your lordships, as the ground of this defence, has been a family complaint; and I have heard that my own family have, of late, endeavoured to prove me such. The defence I mean is occasional insanity of mind; and I am convinced, from recollecting within myself, that, at the time of this action, I could not know what I was about. I say, my lords, upon reflecting within myself, I am convinced, that, at that time, I could not know what I was about.

It has been too plainly proved, that, at the time this accident happened, I was very sober, that I was not disordered with liquor: your lordships will observe, from the evidence both of Mr. Kirkland and Miss Johnson, that it plainly appeared that this man never suspected there was any malice, or that I had any."

The evidence adduced in support of his lordship's plea of insanity will be found fully summed up, and commented on, in the reply of the Solicitor General. The testimony of two witnesses, however, was of such moment, that it is here given at length. The first of these was the

Honourable and Rev. Walter Shirley, who was thus examined by Earl Ferrers.

What relation are you to me?—Brother.

Do you know any, and which, of the family, that have been afflicted with lunacy; if you do, please to mention their names?—I believe the prisoner at the bar has that misfortune,

What is your reason for such belief?—I have many reasons for it. The first is, that I have seen him several times talking to himself, clenching his fists, grinning, and having several gestures of a madman, without any seeming cause leading thereto. I have likewise very frequently known him extremely suspicious of plots and contrivances against him from his own family; and, when he was desired to give some account what the plots were that he meant, he could not make any direct answer.—Another reason I have for thinking him so is, his falling into violent passion, without any adequate cause.

Do you believe that, at some times, I have been hurried into violent fits, so as not to know the distinction between a moral or immoral act?—I believe, at those times when my lord has been transported by this disease of lunacy, that he has not been able to distinguish properly between moral good and evil.

Has any other of the family, besides myself, been afflicted with lunacy?—I have heard——*(stopt.)*

Please to inform their lordships, whether, at the time I have been transported with such violent fits, they have been the effects of drink, and whether they have happened when I was sober?—Frequently when my lord has been sober, much more so when he has been a little inflamed with liquor.

Do you know of any intention in the family to take out a commission of lunacy against me?—I heard it talked of.

How long ago?—I think I can recollect it was at the time of his lordship's committing the outrage at Lord Westmoreland's house that it was proposed to be done; but afterwards they were afraid to go through with it; and the reason given was, lest, if the court of judicature should not be thoroughly satisfied of my lord's lunacy upon inspection, that the damage would be very great to those that should attempt it.

Why was the family afraid that I should appear in the courts of judicature to be in my senses?—Because my lord had frequently such long intervals of reason, that we imagined if he, on the inspection, appeared reasonable, the court would not grant the commission against him.

What damage do you mean that the family was apprehensive of, in case

the court should refuse a commission?—We apprehended my lord would sue us for *scandalum magnatum.*

Was the family apprehensive of any other kind of damage?—I know of none.

Att. Gen. My lords, I did not intend to have troubled this gentleman; but from what he has said, your lordships will permit me to ask him two or three questions; I shall do it very tenderly, and with as much propriety as I can.—In giving his account of the noble lord's state of mind, as far as I could collect it, he said, that he had more reasons than one why he deemed him to be insane.

Att. Gen. Mr. Shirley, you said that the first ground was, that his lordship would, at times, talk to himself, grin, and use certain gestures, proper only to madmen—Now, as to this first mark of insanity, was this frequently the case of his lordship?—Very frequently.

Did he, at those times, speak loud, or use any intelligible language to himself?—He did not.

Did he, at such times, offer to commit any mischief or betray any marks of disorder while in that situation?—I do not recollect any.

Then, as far as I can understand you, at those times, his behaviour in those intervals was perfectly innocent.—Yes.

At such times have you ever entered into discourse with him?—No, I do not remember.

Did you never ask him a single question when you have seen him walking backwards and forwards in the way you mention?—I don't remember I have.

Did you never hear him speak at such times to other persons?—Not whilst he continued in those attitudes.

I don't ask you whether he conversed the time that he was mute, but within a quarter or half an hour?—I am not certain.

Your next ground for supposing him to be insane was, that he was accustomed to be transported into passions without any adequate cause, were those the words?—Without any seeming cause.

Was not "adequate" the expression you used?—Yes.

I should be glad to know whether you deem every man that is transported with anger, without an adequate cause, to be a madman?—I deem it as a sign of madness in him; but there were other causes.

I ask you a general question, and I do not expect a particular answer. Whether you deem a person that is transported with fury without reason, to be a madman?—I think a person may be transported to fury without an adequate cause, that is no madman.

Then please to recollect some particular instance of this frantic passion, and state it.—I really cannot command my memory so far. I have not seen my lord these two years, till the time of this unhappy confinement.

Then I am to understand you, that you cannot recollect one particular instance; am I or not?—I cannot recollect any at this time.

Then as to the suspicion of plots without any foundation; will you please to enumerate any of those?—He never himself would give any particular account of what he suspected, only that he did suspect that the family was in some combination against him; and when I have asked him, what it was that he meant, he would never give me a direct answer to that question.

Does that kind of behaviour, as you describe it, denote a man out of his senses?—I thought so. I was so fully possessed of that opinion, that I declared to other people long ago, that I thought him a madman.

Please to inform their lordships, whether the unfortunate earl lived well or ill with his family?—Indeed, he did not live in friendship with his family.

Were there not disputes on both sides?—Yes, there were; his younger brothers and sisters were under the unhappy constraint of suing for their fortunes.

Then please to inform their lordships, whether, in truth, there was not a combination in the family against him? I do not mean a criminal one.—I am very certain that was not what my lord alluded to.

If you are certain of that, you can inform their lordships what it was that he alluded to?—I will give a reason why I am certain it was not that; because it appeared to be some secret combination: that was a thing publicly known.

How did you recollect that the combination was secret?—By my lord's manner of expressing himself.

Can you recollect the phrase or the words he used?—I cannot.

In another part of your examination you was asked, whether the earl could distinguish between good and evil? You said he could not distinguish them properly. Was he at that time less able to distinguish properly between good and evil than any other man that is transported into a violent passion?—I never saw any man so transported.

Did he express himself in insensible words, so as that you could discover the state of his mind; and that it was that of a madman, and not a man in passion?—I considered it as madness.

Can you recollect any expression, in any fit of passion that my lord

was in, that might not as well have come from the mouth of any other passionate man?—Indeed I cannot.

You recollect an old adage, "Ira furor brevis est:" do you believe that his was such madness as is there poetically described?—I believe that it really proceeded from madness.

Have you ever seen him so transported upon any other occasion than that of anger? Have you seen any appearance of that kind when he was cool and calm?—I have seen him break into passions without any seeming cause.

You said you could not remember any instance, when the question was asked you; can you now?—I remember once being at a hunting seat at Quarendon in Leicestershire, as I chose to avoid the bottle, I went up stairs to the ladies; Lady Ferrers, at that time, lived with him; and, without any previous quarrel, my lord came up stairs into the room; and after standing for some time with his back to the fire, he broke out into the grossest abuse of me, insulting me, and swearing at me; and I cannot to this day or hour conceive any reason for it.

Had you never any dispute or quarrel with your brother?—Not at that time.

Might not you have had some quarrel a few days before?—No.

Are you confident of that?—I am confident.

Had he no suspicion at that time of you interesting yourself with respect to my Lady Ferrers?—There was then no quarrel existing.

Had there never been a quarrel between my lord and my lady?—I think not; it was soon after his marriage.

The other witness was one Elizabeth Williams, who was also thus examined by the Earl.

How long have you known Lord Ferrers?—A great many years.

Do you know of any distemper that Lord Ferrers is afflicted with, and what is it?—He never appeared like any other gentleman.

Wherein did he differ from any other people in general?—He always was a-musing and talking to himself. He spit in the looking-glass, tore the pictures, swearing he would break my bureau open, and would break all the glasses in my house, and would throttle me if I would not let him do it.

Had he any particular reason for this conduct?—None that I ever saw, but like a delirious man.

Did you keep a public-house?—Yes.

How near did you live to my lord?—My lord was at my house, and boarded with me.

Are you the wife of the witness Williams?—Yes.

Where did Lord Ferrers live, at the time he behaved in that odd manner you speak of?—He had lodgings at Muswell-Hill.

How far did you live from him?—Two miles, to the best of my knowledge; he frequently used to come; I have made him coffee and sent up a dish, he always drank it out of the spout, which surprised me, that I thought him delirious.

How long ago is that?—I believe it is about twelve months ago, to the best of my knowledge.

Have you often seen Lord Ferrers behave in that manner?—I never saw him behave like any other gentleman in my life.

Was the coffee hot when he drank it out of the spout?—Hot. He always went about the town like a madman, throttled me, and threw me down in the yard one day, when he took the horse away.

Did you think Lord Ferrers a madman?—I know he was by all appearance.

Was he generally thought so by other people?—By all the whole town.

A Lord. When he threatened to break open your bureau, and to use you ill if you did not let him do it, was he in liquor?—*El. Williams.* Sober as I am now.

A Lord. Did you ever, upon any occasion when he committed these outrages, observe that he had been drinking?—*El. Williams.* Never; he never drank in the morning but a little tea, or coffee, or some broth.

Earl *Ferrers.* Have you ever seen me commit any other acts of outrage besides those you have mentioned?—A great many more that are worse.

Name them.—Swearing, cursing, and damning us; and wishing us all at hell, and himself at hell; and threatened to break the glasses; and talked to himself for hours together in bed.

Was he drunk or sober at those times?—Very rarely; but he seemed more to be disturbed in his mind.

Mention the circumstance about my coming for the mare.—My lord came for the mare, it was at church-time, and brought his servants, and a hammer in his hand, and guns, with a tuck in his hand, and broke the stable door open by violence of arms, and knocked me down with his arm, and run the tuck into my husband, fetched the blood, I was obliged to

have a surgeon to attend him; and took the mare away by force of arms; and if any body came to hinder him, he said he would blow their brains out. He always had pistols nobody knew of. I never saw any gentleman that came to my house before, that had those things about them. I used to like to take them out of his bed-chamber, but was afraid to touch them, for fear of what he should do to me himself, by seeing his mind so disturbed.

Were those outrages committed when he was drunk or sober?—Sober for the general; and when he took the mare away, as sober as he is now.

Earl of *Hardwicke.* Inform their lordships, whether, before my lord came in this manner to get the mare out of the stable, he had before sent any servant to demand the mare, and had been refused?—*Williams.* Yes, he had, the boy was gone to church. We always kept it under lock, because there was more of his lordship's horses; and nobody was to go into the stable but his lordship's ostler.

At the conclusion of the evidence of insanity, the Earl put in a paper which was read by the clerk, and ran as follows:—

My lords; It is my misfortune to be accused of a crime of the most horrid nature. My defence is, in general, that I am Not Guilty: the fact of Homicide is proved against me by witnesses, who, for aught I can say, to the contrary, speak truly.

But if I know myself at this time, I can truly affirm, I was ever incapable of it, knowingly: if I have done and said what has been alleged, I must have been deprived of my senses.

I have been driven to the miserable necessity of proving my own want of understanding; and am told, the law will not allow me the assistance of counsel in this case, in which, of all others, I should think it most wanted.

The more I stand in need of assistance, the greater reason I have to hope for it from your lordships.

Witnesses have been called to prove my insanity—to prove an unhappy disorder of mind, and which I am grieved to be under the necessity of exposing.

If they have not directly proved me so insane as not to know the difference between a moral and immoral action, they have at least proved that I was liable to be driven and hurried into that unhappy condition upon very slight occasions.

Your lordships will consider whether my passion, rage, madness (or whatever it may be called) was the effect of a weak or distempered mind, or whether it arose from my own wickedness, or inattention to my duty.

If I could have controuled my rage, I am answerable for the consequences of it. But if I could not, and if it was the mere effect of a distempered brain, I am not answerable for the consequences.

My lords, I mention these things as hints—I need not, indeed I cannot, enlarge upon this subject: your lordships will consider all circumstances, and I am sure you will do me justice.

If it be but a matter of doubt, your lordships will run the hazard of doing me injustice, if you find me guilty.

My lords, if my insanity had been of my own seeking, as the sudden effect of drunkenness, I should be without excuse. But it is proved, by witnesses for the crown, that I was not in liquor.

Mr. Kirkland, who drank and conversed with me, in order to betray me, (Mr. Attorney may commend his caution, but not his honesty,) represents me the most irrational of all madmen, at the time of my doing a deed which I reflect upon with the utmost abhorrence.

The Counsel for the Crown will put your lordships in mind of every circumstance against me; I must require of your lordships' justice, to recollect every circumstance on the other side.

My life is in your hands, and I have every thing to hope, as my conscience does not condemn me of the crime I stand accused of; for I had no preconceived malice; and was hurried into the perpetration of this fatal deed by the fury of a disordered imagination.

To think of this, my lords, is an affliction, which can be aggravated only by the necessity of making it my defence.

May God Almighty direct your judgments, and correct my own!

His lordship further said, "my lords, I will mention one circumstance, which I did speak of yesterday; it was said, that I knew of a lease Johnson had, but it has never been proved; therefore, I imagine, that what I asserted, that I did not know of it, must be admitted as truth."

L. H. S. Earl Ferrers, Hath your lordship any thing more to offer?

Earl *Ferrers*. No.

The Solicitor General, the Hon. Charles Yorke, afterwards Lord Chancellor, made a long and elaborate reply on the part of the Crown. From it is here extracted the portion which bore upon the prisoner's defence of insanity.

Sol. Gen. "My lords, what is the evidence produced by the noble lord? In the first place, there is none which applies to the time of committing the fact. His sobriety is admitted, and drunkenness would not excuse; and even supposing it had appeared to your lordships, that the noble prisoner was sometimes, by fits and starts, under a degree of lunacy or temporary insanity; yet if he was of sound mind at that hour, he is a person within all the rules and distinctions which Lord Hale explains. But, my lords, in the next place, I must observe, that no general evidence has been offered, which proves his lunacy or insanity at any time; for his own witnesses fail in their endeavours to shew it. This appears from their manner of expressing themselves in their original examination; but still more in the answers, which they gave to the questions asked upon the cross-examination.

The two first witnesses called were, Mr. Benefold, and Mr. Goostrey. They describe the insanity of the noble lord at the bar to consist of flights. They say, that he would swear; would talk to himself; that he would use strange gestures; that he had friends, and suspected them; that he was of a positive temper, and difficult to be dissuaded from any opinion or resolution which he had once formed. But Mr. Bennefold, upon the cross-examination, admitted, that he never knew of any act of wildness done by his lordship, nor any physician sent for, to take care of him in that respect. He said, upon the whole, that he thought Lord Ferrers had better parts and understanding than ordinary men. Mr. Goostrey told your lordships, upon the cross-examination, that he had done business several years for Lord Ferrers; that he had advised and prepared deeds for his lordship to execute; that he had assisted in suffering a recovery to bar the entail of the estate; and admitted his sense and capacity in general, but inferred insanity from positiveness of temper and opinion. However, in answer to a question proposed by one of your lordships, he said, that he thought Lord Ferrers capable of distinguishing between moral and immoral actions.

Several other witnesses have been called to-day. I will first mention Mr. Clarges. He describes similar circumstances with Mr. Bennefold and Mr. Goostrey, from which he collects the insanity of the noble prisoner. He said, that he had observed great oddities in my lord during his minority, but no defect of understanding. He could not specify particular instances; and added, that his lordship was jealous and suspicious: but the witness never saw him in such a situation, as not to be capable of distinguishing between good and evil, and not to know, that murder was a great crime.

My lords, this account of the state of the noble prisoner's mind is consistent, not only with a considerable degree of understanding, but with the highest degree of it. If the law were to receive such excuses, it would put a sword into the hand of every savage and licentious man, to disturb private life, and public order.

My lords, there was another witness of a different and a much lower sort than those whom I have named; I mean Elizabeth Williams. She was the only person who said, that the noble Earl was always mad. When she came to explain the instances from which she drew that conclusion, the principal one insisted upon was ridiculous; the anger which he shewed against a servant, who had neglected to take care of a favourite mare, intrusted to his management. This was a vivacity so natural, that if it be deemed a symptom of madness, few are free from it; and I doubt the inference will go far in cases of common life.

The two next witnesses, whom I will mention, are the brothers of the noble Earl. My lords, I own I felt for them. It gave me pain to see them, in a cause which touches a brother's life, brought to the bar as witnesses, to mitigate the consequences of one misfortune, by endeavouring to prove another of the most tender and affecting nature; and if they had spoke stronger to matters of conjecture, opinion, and belief, for my part, I could easily have excused them.

My lords, they both spoke with caution, and as men of honour; but one of them was the only witness of weight, who expressed a belief, that, at particular times, the noble lord might not be able to distinguish between moral good and evil. I did not observe, that he spoke of any instance within his own recollection. The circumstances, from which these gentlemen inferred insanity, were for the most part of the same kind with those which came from the mouths of the other witnesses. They did not carry the marks of it in the least degree beyond that evidence. And Mr. Walter Shirley admitted, that the noble lord at the bar had long intervals of reason. I endeavour to repeat the expression, and I think it was so. Mr. Robert Shirley told your lordships, that he had not seen the noble prisoner for four years past; that the last time of seeing Lord Ferrers was at Burton upon Trent. He mentioned the carrying of pistols, and a large case knife, at that time. I understood him to say, that the noble lord generally did so; the witness had seen it only once; but from that circumstance he argued insanity. Your lordships will judge, whether this practice might not be owing to jealousy and violence of temper, as well as to lunacy and madness.

The witness added, that he had written formerly to his brother Captain Washington Shirley, about taking out a commission of lunacy against Lord Ferrers; but I could not find, that any measures were taken in consequence of that opinion given by the witness, nor did he himself ever take any steps towards it, nor any branch of his family.

The last witness called, on behalf of the noble prisoner, was Doctor Monro. He was brought here to describe, what symptoms he considers as marks of lunacy or insanity. He said, that there were many; and of being asked particularly, as to the several symptoms suggested in this cause, Doctor Monro was led to speak principally of three marks on lunacy. The first was common fury, not caused by liquor, but raised by it. Surely this circumstance will not infer insanity. The next was jealousy and suspicion, with causeless quarrelling. Do not many, who are not lunatics, suspect or quarrel without cause, and become dangerous to their neighbours? The third was, carrying arms; which (he said) though less usual, might be a mark of lunacy. And it is equally true, that such behaviour may prove, in many cases, a bad heart and vicious mind, as well as lunacy. My lords, the general observation, which occurs upon Dr. Monro's evidence, is this, that he did not describe any of those things as absolute marks of lunacy, so as to denote every man a lunatic who was subject to them.[1] Indeed he could not have said it, consistently with common sense and experience.

This was the import of the evidence of the noble prisoner. No witnesses were offered, on the part of the King, in reply to that evidence. and, my lords, the reason why they were not offered was, because the counsel who attended your lordships for the King, choose to submit it to your opinions, whether the evidence produced for the prisoner does not tend to strengthen, rather than weaken, that proof of capacity, which arises out of all circumstances urged, in support of the charge? From those circumstances, I have already shewn, that the noble prisoner was conscious of what he did, at the time of the offence committed; that he weighed the motives; that he acted with deliberation; that he knew the consequences.

I will only take notice of one thing more. Your lordships have attended with great patience, and the most impartial regard to justice, to all the evidence, and every observation, which has been laid before you. You have seen the noble prisoner, for two days at your bar (though labouring under the weight of this charge), cross-examining the witnesses for the King, and examining his own in a manner so pertinent,

as cannot be imputed merely to the hints and advice of those agents and counsel, with which you have indulged him. I am persuaded, from the appearance and conduct of the noble prisoner, that if the fact itself would have admitted doubts, and probable arguments, to repel the force of any one material circumstance, your lordships would have heard him press those arguments, with sense and sagacity.

But, my lords, the truth is, that the fact tried this day stands without alleviation. There is not a colour for the defence, unless it arises from the enormity of the crime, aggravated by the manner of committing it; an old, faithful servant of himself and his family, murdered in cold blood whilst he was performing, by express orders, an act of dutiful attendance upon his master; murdered in the most deliberate and wilful manner destructive of all confidence in human society. My lords, in some sense, every crime proceeds from insanity. All cruelty, all brutality, all revenge, all injustice, is insanity. There were philosophers, in ancient times, who held this opinion, as a strict maxim of their sect; and, my lords, the opinion is right in philosophy, but dangerous in judicature, It may have a useful and a noble influence, to regulate the conduct of men; to controul their impotent passions; to teach them, that virtue is the perfection of reason, as reason itself is the perfection of human nature; but not to extenuate crimes, nor to excuse those punishments, which the law adjudges to be their due.

My lords, the necessity of his Majesty's justice; the necessity of public example, called for this prosecution; and the effect of the whole evidence is submitted to the weight and wisdom of your judgment."

The peers unanimously found Lord Ferrers guilty, and on the 18th April, the third day of the trial, the Earl was brought up for judgment. His lordship being called upon to say why sentence of death should not pass, thus addressed the Court through the clerk:

"My lords, I must acknowledge myself infinitely obliged for the fair and candid trial your lordships have indulged me with.

I am extremely sorry that I have troubled your lordships with a defence that I was always much averse to, and has given me the greatest uneasiness; but was prevailed on by my family to attempt it, as it was what they themselves were persuaded of the truth of; and had proposed to prove me under the unhappy circumstances that have been ineffectually represented to your lordships.

This defence has put me off from what I proposed, and what perhaps might have taken off the malignity of the accusation; but, as there has

been no proof made to your lordships, can only be deemed at this time my own assertion; but that I must leave to your lordships.

My lords, I have been informed of this intention of the family before; and your lordships, I hope, will be so good to consider, the agony of mind a man must be under, when his liberty and property are both attacked: my lords, under these unhappy circumstances, though the plea I have attempted was not sufficient to acquit me to your lordships, according to the laws of this country; yet I hope your lordships will think, that malice, represented by the counsel for the crown, could not subsist; as I was so unhappy as to have no person present at the time of the fatal accident, it was impossible for me to shew your lordships, that I was not at that instant possessed of my reason.

As the circumstances of my case are fresh in your lordships' memories, I hope your lordships will, in compassion to my infirmities, be kind enough to recommend me to his majesty's clemency.

My lords, as I am uncertain whether my unhappy case is within the late act of parliament, if your lordships should be of opinion that it is, I humbly hope the power of respiting the execution will be extended in my favour, that I may have an opportunity of preparing myself for the great event, and that my friends may be permitted to have access to me.

If any thing I have offered should be thought improper, I hope your lordships will impute it to the great distress I am under at this juncture.

Lord High Steward. Has your lordship any thing else to offer?—Earl *Ferrers.* No.

Proclamation was then made for silence.

Lord High Steward. "Lawrence Earl Ferrers; His majesty, from his royal and equal regard to justice, and his steady attention to our constitution, (which hath endeared him in a wonderful manner to the universal duty and affection of his subjects) hath commanded this inquiry to be made, upon the blood of a very ordinary subject, against your lordship, a peer of this realm: your lordship hath been arraigned; hath pleaded, and put yourself on your peers; and they (whose judicature is founded and subsists in wisdom, honour, and justice) have unanimously found your lordship guilty of the felony and murder charged in the indictment.

It is usual, my lord, for courts of justice, before they pronounce the dreadful sentence pronounced by the law, to open to the prisoner the nature of the crime of which he is convicted; not in order to aggravate or afflict, but to awaken the mind to a due attention to, and consideration of, the unhappy situation into which he hath brought himself.

My lord, the crime of which your lordship is found guilty, murder, is incapable of aggravation; and it is impossible, but that, during your lordship's long confinement, you must have reflected upon it, represented to your mind in the deepest shades, and with all its train of dismal and detestable consequences.

As your lordship hath received no benefit, so you can derive no consolation from that refuge you seemed almost ashamed to take, under a pretended insanity; since it hath appeared to us all, from your cross-examination of the king's witnesses, that you recollected the minutest circumstances of facts and conversations, to which you and the witnesses only could be privy, with the exactness of a memory more than ordinary sound; it is therefore as unnecessary as it would be painful to me, to dwell longer on a subject so black and dreadful.

It is with much more satisfaction, that I can remind your lordship, that though, from the present tribunal, before which you now stand, you can receive nothing but strict and equal justice; yet you are soon to appear before an Almighty Judge, whose unfathomable wisdom is able, by means incomprehensible to our narrow capacities, to reconcile justice with mercy; but your lordship's education must have informed you, and you are now to remember, such beneficence is only to be obtained by deep contrition, sound, unfeigned, and substantial repentance.

Confined strictly, as your lordship must be, for the very short remainder of your life, according to the provision of the late act; yet, from the wisdom of the legislature, which, to prevent as much as possible, this heinous and horrid offence of murder, hath added infamy to death; you will be still, if you please, entitled to converse and communicate with the ablest divines of the Protestant church, to whose pious care and consolation, in fervent prayer and devotion, I most cordially recommend your lordship.

Nothing remains for me, but to pronounce the dreadful sentence of the law; and the judgment of the law is, and this high court doth award,

That you, Lawrence Earl Ferrers, return to the prison of the Tower, from whence you came; from thence you must be led to the place of execution, on Monday next, being the 21st day of this instant April; and when you come there, you must be hanged by the neck till you are dead, and your body must be dissected and anatomized.

And God Almighty be merciful to your soul!"

The prisoner was removed from the bar by the Lieutenant of the Tower. The commission of the High Steward was then dissolved, and the Court adjourned.

The following account of the execution of Earl Ferrers is to be found attached to most reports extant of his lordship's trial.

The Sheriffs, on Monday, the 5th day of May, 1760, (the time fixed after a respite,) being attended by their under-sheriffs, and other proper officers, went to the outward gate of the Tower of London, and at nine o'clock in the morning sent notice to the Lieutenant that they were there, ready to receive the body of Lawrence Earl Ferrers, Viscount Tamworth, pursuant to the King's writ in that behalf.

His lordship being informed of it, sent a message to the sheriffs, requesting their permission that he might go in his own landau, which was waiting for him at the Tower, instead of the mourning-coach which had been provided by his friends; which request being granted, his lordship, attended by the Reverend Mr. Humphreys, the chaplain of the Tower, entered into his landau, drawn by six horses, and was conducted in it, by the officers of the Tower, to the outward gate, and there delivered into the custody of the sheriffs, upon their giving the following receipt:

"*Tower-Hill, 5th May*, 1760.

"Received then of Charles Rainsford, Esq., Deputy-Lieutenant of the Tower of London, the body of the within-named Lawrence Earl Ferrers, Viscount Tamworth, delivered to us in obedience of the King's writ, of which the within is a true copy.—GEO. ERRINGTON, PAUL VAILLANT, Sheriffs of London and Sheriff of Middlesex."

Mr. Sheriff Vaillant accompanied his lordship in the landau from the Tower gate to the place of execution; and, upon his entrance into it, addressing himself to his lordship, he told him, That it gave him the highest concern to wait upon him upon so melancholy an occasion, but he would do everything in his power to render his situation as easy as possible; and hoped that, whatever he did, his lordship would impute to the necessary discharge of his duty.—To which his lordship answered, Sir, I am very much obliged to you, I take it very kindly that you are pleased to accompany me.—His lordship being dressed in a suit of light clothes, embroidered with silver, said, You may, perhaps, Sir, think it strange to see me in this dress, but I have my particular reasons for it.

The civil and military powers attended the sheriffs from thence to the place of execution, and the procession was as follows:—

First, a very large body of the constables for the county of Middlesex (the greatest probably that ever had been assembled together on any occasion), preceded by one of the high-constables.

Then a party of horse-grenadiers, and a party of foot;

Then Mr. Sheriff Errington in his chariot, accompanied therein by his under-sheriff Mr. Jackson;

Then followed the landau, escorted by two other of horse-grenadiers and foot;

Then Mr. Sheriff Vaillant's chariot, in which was his under-sheriff Mr. Nicolls;

Then a mourning coach and six;

And, lastly, a hearse and six, which was provided for the conveyance of his lordship's corpse from the place of execution to Surgeons-Hall.

The procession was conducted with the utmost solemnity; but moved so very slow, that it did not reach the place of execution till a quarter before twelve, so that his lordship was two hours and three quarters in the landau; during the whole of which time he appeared to be perfectly easy and composed, and his decent deportment seemed greatly to affect the minds of all who beheld him; insomuch that although his lordship thus passed many hundred thousand spectators, yet so respectful was the behaviour of all towards him, that not the least affront or indignity was offered to him by any one; but, on the contrary, many persons saluted him with their prayers for his salvation.

His lordship asked the sheriff, if he had ever seen so great a concourse of people before? and upon his answering that he had not; I suppose, said his lordship, it is, because they never saw a lord hanged before. He said, that he had wrote to the king, to beg that he might suffer where his ancestor the Earl of Essex had suffered; and that he was in the greater hopes of obtaining the favour, as he had the honour of quartering part of the same arms, and of being allied to his majesty, and that he thought it was hard that he must die at the place appointed for the execution of common felons. But whatever his lordship's thoughts were upon that account, those considerations will for ever throw an additional lustre on his majesty's impartiality and justice.

Mr. Humphries the chaplain, who, it seems, had not attended his lordship till this morning, took occasion to observe, that the world would naturally be very inquisitive concerning the religion his lordship professed; and asked him, If he chose to say any thing upon that subject? To which his lordship answered, That he did not think himself at all accountable to the world for his sentiments on religion; but that he had always believed in, and adored one God, the maker of all things; that whatever his notions were, he had never propagated them, or endeavoured

to gain any person over to his persuasion; that all countries and nations had a form of religion by which the people were governed, and that whoever disturbed them in it, he looked upon him as an enemy to society; but that, if he himself was wrong in his way of thinking, he was very sorry for it. That he very much blamed my Lord Bolingbroke, for permitting his sentiments on religion to be published to the world. That the many sects and disputes which happen about religion, have almost turned morality out of doors. That he could never believe what some sectaries teach, that faith alone will save mankind; so that if a man, just before he dies, should say only, I believe, that that alone will save him; "Shew me thy faith."—Here his lordship stopped; but by which quotation he plainly meant, according to the holy writer, (St. James, chap. ii. v. 18.) whose words they are, that faith without works is a dead faith.

Concerning the unfortunate and much-to-be-lamented Mr. Johnson, whose death occasioned the trouble this day, his lordship declared, That he was under particular circumstances; that he had met with so many crosses and vexations he scarce knew what he did; and most solemnly protested, that he had not the least malice towards him.

The slowness of the procession made this journey appear so very tedious to his lordship, that he often expressed his desire of being got to the end of it, saying, that the apparatus of death, and the passing through such crowds of people, were ten times worse than death itself; but upon the sheriff's taking notice to his lordship, that he was glad to see that he supported himself so well, his lordship replied, I thank you, Sir, I hope I shall continue so to the last.

When his lordship had got to that part of Holborn which is near Drury-lane, he said, he was thirsty, and should be glad of a glass of wine and water; but upon the sheriff's remonstrating to him, that a stop for that purpose would necessarily draw a greater crowd about him, which might possibly disturb and incommode him, yet if his lordship still desired it, it should be done; he most readily answered,—That's true, I say no more, let us by no means stop.

When they approached near the place of execution, his lordship told the sheriff, That there was a person waiting in a coach near there, for whom he had a very sincere regard, and of whom he should be glad to take his leave before he died; to which the sheriff answered, That if his lordship insisted upon it, it should be so; but that he wished his lordship, for his own sake, would decline it, lest the sight of a person, for

whom he had such a regard, should unman him, and disarm him of the fortitude he possessed.—To which his lordship, without the least hesitation, replied, Sir, if you think I am wrong, I submit; and upon the sheriff's telling his lordship, that if he had any thing to deliver to that person, or any one else, he would faithfully do it; his lordship thereupon delivered to the sheriff a pocket-book, in which was a bank-note, and a ring, and a purse with some guineas, in order to be delivered to that person, which was done accordingly.

The landau being now advanced to the place of execution, his lordship alighted from it, and ascended upon the scaffold, which was covered with black baize, with the same composure and fortitude of mind he had enjoyed from the time he left the Tower; where, after a short stay, Mr. Humphries asked his lordship, if he chose to say prayers? which he declined; but upon his asking him, If he did not choose to join with him in the Lord's Prayer? he readily answered, He would, for he always thought it a very fine prayer; upon which they knelt down together upon two cushions, covered with black baize, and his lordship with an audible voice very devoutly repeated the Lord's Prayer, and afterwards, with great energy, the following ejaculation, O God, forgive me all my errors—pardon all my sins.

His lordship then rising, took his leave of the sheriffs and the chaplain; and after thanking them for their many civilities, he presented his watch to Mr. Sheriff Vaillant, which he desired his acceptance of; and signified his desire, that his body might be buried at Breden or Stanton, in Leicestershire.

His lordship then called for the executioner, who immediately came to him, and asked him forgiveness; upon which his lordship said, I freely forgive you, as I do all mankind, and hope myself to be forgiven.—He then intended to give the executioner five guineas, but, by mistake, giving it into the hands of the executioner's assistant, an unseasonable dispute ensued between those unthinking wretches, which Mr. Sheriff Vaillant instantly silenced.

The executioner then proceeded to do his duty, to which his lordship, with great resignation, submitted.—His neckcloth being taken off, a white cap, which his lordship had brought in his pocket, being put upon his head, his arms secured by a black sash from incommoding himself, and the cord put round his neck, he advanced by three steps upon an elevation in the middle of the scaffold, where part of the floor had been raised about eighteen inches higher than the rest; and standing under

the cross-beam which went over it, covered with black baize, he asked the executioner, Am I right?—Then the cap was drawn over his face: and then, upon a signal given by the sheriff (for his lordship, upon being before asked, declined to give one himself) that part upon which he stood, instantly sunk down from beneath his feet, and left him entirely suspended; but not having sunk down so low as was designed, it was immediately pressed down, and levelled with the rest of the floor.

For a few seconds his lordship made some struggles against the attacks of death, but was soon eased of all pain by the pressure of the executioner.

The time from his lordship's ascending upon the scaffold, until his execution, was about eight minutes; during which his countenance did not change, nor his tongue falter:—The prospect of death did not at all shake the composure of his mind.

Whatever were his lordship's failings, his behaviour in these his last moments, which created a most awful and respectful silence amidst the numberless spectators, cannot but make a sensible impression upon every human breast.

The accustomed time of one hour being past, the coffin was raised up, with the greater decency to receive the body, and being deposited in the hearse, was conveyed by the sheriffs, with the same procession, to Surgeons-Hall, to undergo the remainder of the sentence (viz. dissection).—Which being done, the body was on Thursday evening, the 8th of May, delivered to his friends for interment.

He was privately interred at St. Pancras near London, in a grave dug twelve or fourteen feet deep, under the belfry.

Pursuant to a distinction in law, peculiarly fine, the Earldom of Ferrers, was not forfeited by the attainder for felony, but passed to the convicted lord's next brother, Vice Admiral, the Hon. Washington Shirley, who consequently became the fifth Earl: his nephew Washington, the eighth Earl, was the grandfather, and immediate predecessor of the nobleman who now enjoys the title. The reason for the non-forfeiture of the Earldom of Ferrers lay in the difference between a dignity descendible to heirs general, and one that is (as it was) entailed; the former, it seems, being absolutely forfeited by the attainder of felony of the person possessed of such dignity, while the entailed honour is only forfeited during the lifetime of the offender.

Pending the interval between sentence, and execution, Earl Ferrers made a will, by which he left £1300 to the children of Johnson whom

he had murdered, £1000 to each of his own four natural daughters, and £60 a-year to Mrs. Clifford, their mother, who it will be remembered is mentioned in the course of the trial as residing with the Earl at the time of his offence. This will, however, being made after his conviction, was not valid, yet the same provision was allowed to the parties by the unfortunate nobleman's successor.

The following verse is said to have been found in Earl Ferrers' apartment in the Tower, after he had quitted it for his last fatal journey.

In doubt I liv'd, in doubt I die,
Yet stand prepar'd, the vast abyss to try,
And undismay'd expect eternity.

THE MYSTERIOUS CASE OF WILLIAM BARNARD, AND THE DUKE OF MARLBOROUGH.

The writer of romance has ever been accused of sacrificing not only the probable, but the possible, to the marvellous,—of concocting fable that could have no foundation in fact,—describing scenes that could not have occurred, and depicting character that could not have existed, of building, in a word, on the slippery sands of fiction alone, regardless alike of reason and reality. Is such, however, precisely his position? The most incomprehensible of his stories have been paralleled in every-day life; and wonderful though his narrations, and wild and fanciful his dreamings, the judicial historian bears ample testimony that he is not altogether a visionary. The records of jurisprudence disclose circumstances which have absolutely occurred, as strange as the strangest to be found in the pages of romance—as difficult to be accounted for, and as hard to be credited. Of these singular realities one most remarkable is the following trial.

The Duke of Marlborough here referred to, was Charles Spencer, fifth Earl of Sunderland, grandson of the hero of Blenheim, and second Duke of Marlborough, which title he inherited the 24th October, 1733, on the demise, unmarried, of his aunt, Henrietta, daughter of the first Duke, herself Duchess of Marlborough in her own right. This second Duke was himself a general of eminence, and fought with distinction at Dettingen: he died of a fever, the 28th October, 1758, at Munster in Westphalia: he was the great grandfather of the present Duke of Marlborough.

The trial took place at the Old Bailey on the 10th and 11th May, 1758: the able Sir Michael Foster, was among the judges present. The narrative given on the side of the prosecution was this:—

After Mr. *Moore* had opened the indictment, Mr. Serjeant *Davy* spoke as follows:

"May it please your lordships, and you gentlemen of the jury;

I am counsel in this cause for the prosecution against the prisoner at the bar, who stands indicted on an act of Parliament made in the ninth year of his late majesty, very well known by the name of the Black Act. That act of parliament, reciting the several mischiefs, and constituting several felonies, amongst other things, enacts, That if any person shall knowingly send any letter, without any name subscribed thereto, or signed with a fictitious name, demanding money, venison, or other valuable things; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

It is on that act that this indictment now comes before you, that you have heard read. You see it is for sending a letter; for it is on the first of these letters that the present indictment is founded; the others are sent in consequence of the first, and explanatory of his intentions.

I will open to you, as concisely as I can, the several circumstances we have in evidence, in order to affect the prisoner at the bar: they are circumstances of that nature, corresponding so exactly with the prisoner's case, affecting him so very minutely, that the several circumstances do infer, I had almost said an impossibility of his innocence: you will find they all tally so exactly, they are so particularly relative to him, that it will be offering violence to every rule of reason, not to find him guilty.

Gentlemen, on the 29th of November, a letter was found under the door of the Ordnance-office, directed to his Grace the Duke of Marlborough: upon opening this letter, which was wrote in imitation of print-hand, bearing date that day the 29th of November, it will be necessary, for the sake of the following circumstances, to desire your attention to the several parts. These are the words:

"*To his Grace the Duke of Marlborough.*

xxviiii November.

"My lord; as ceremony is an idle thing upon most occasions, more especially to persons in my state of mind, I shall proceed immediately to acquaint you with the motive and end of addressing this epistle to you, which is equally interesting to us both. You are to know then, that my present situation in life is such, that I should prefer annihilation to a continuance in it: desperate diseases require desperate remedies; and you are the man I have pitched upon, either to make me, or to unmake yourself. As I never had the honour to live among the

great, the tenor of my proposals will not be very courtly; but let that be an argument to enforce the belief of what I am now going to write. It has employed my invention, for some time, to find out a method to destroy another, without exposing my own life; that I have accomplished, and defy the law. Now for the application of it. I am desperate, and must be provided for: you have it in your power, it is my business to make it your inclination, to serve me; which you must determine to comply with, by procuring me a genteel support for my life; or your own will be at a period before this session of parliament is over. I have more motives than one for singling you out first, upon this occasion; and I give you this fair warning, because the means I shall make use of are too fatal to be eluded by the power of physic. If you think this of any consequence, you will not fail to meet the author on Sunday next, at ten in the morning, or on Monday, (if the weather should be rainy on Sunday) near the first tree beyond the stile in Hyde Park, in the foot-walk to Kensington: secrecy and compliance may preserve you from a double danger of this sort: as there is a certain part of the world, where your death has more than been wished for, upon other motives. I know the world too well, to trust this secret in any breast but my own. A few days determine me your friend or enemy.

"FELTON."

"You will apprehend that I mean you should be alone; and depend upon it, that a discovery of any artifice in this affair will be fatal to you: my safety is insured by my silence; for confession only can condemn me."

This letter containing every thing that is dreadful, that might raise apprehensions of terror, subscribed by a name which is painful to almost every ear—the name Felton! That was the name of the assassin that stabbed the Duke of Buckingham at Portsmouth.

My lord duke, not intimidated by the letter, though greatly surprised at it, and willing to find out the author, was not afraid to endeavour to apprehend him; he went alone to the spot, and at the time appointed; however, there was some attendant on his Grace at a distance, in order to observe what passed on the occasion. My lord duke had been there some time on horseback, and as much undressed as a man of his quality is. He had pistols before him; he had been there some time, and saw nobody at all at that particular place. After waiting some considerable time, he was returning, and observed a person come to the particular spot just by the tree beyond the stile in Hyde Park, by the foot-walk to

Kensington: that person held a handkerchief to his mouth in a seeming disconsolate manner, looking into the water, and stood still a very considerable while. Upon his Grace seeing this, that the man was not pursuing any way, the Duke had no doubt in his own mind, but that this man (be he who he would) must be the person who had sent him this letter. The man sauntering just at the place, the Duke rode up to the spot, expecting the person would speak to him: his Grace asked the man, Whether he wanted to speak to him? He said, "No."—"Sir," said the Duke "do you know me? I am the Duke of Marlborough; telling you that, perhaps you have something to say to me." "No, my lord." No notice being taken, the Duke came away.

Gentlemen, you see, that this was an appointment on a Sunday to meet at a place where several people might be supposed to be walking. What was the view of that person may be seen by-and-bye. The author of this letter speaks of his being exceedingly guarded against the possibility of a detection; he boasts of the care and caution he had used for that purpose,—he defies the law,—nothing but confession could condemn him,—his safety was insured by his silence,—he knew the world too well, to trust this secret in any breast but his own.

A few days after, in the same week, the Duke received a second letter. This also was put under the door of the Office of Ordnance, and was also wrote in imitation of a print-hand: but the directions of both the letters are not; there will be occasion to take notice of that circumstance by-and-bye. The second letter is in these words:

"*To his Grace the Duke of Marlborough.*

"My lord; You receive this as an acknowledgment of your punctuality as to the time and place of meeting on Sunday last, though it was owing to you that it answered no purpose. The pageantry of being armed, and the ensign of your order, were useless, and too conspicuous: you needed no attendant; the place was not calculated for mischief, nor was any intended. If you walk in the west aisle of Westminster Abbey, towards eleven o'clock on Sunday next, your sagacity will point out the person, whom you will address by asking his company to take a turn or two with you. You will not fail, on enquiry, to be acquainted with the name and place of abode; according to which directions you will please to send two or three hundred pound bank notes the next day by the penny post. Exert not your curiosity too early: it is in your power to make me grateful on certain terms. I have friends who are faithful; but they do not bark before they bite. I am, &c. &c. F."

Gentlemen, you see, the writer of the second letter speaks of being himself in the Park, or at least of knowing that the Duke was there, at the time and place appointed: and therefore this was a farther circumstance to convince the Duke, that the person, whom he had seen the Sunday before in Hyde Park, and spoke to, was the writer of the second letter. You see it speaks of the Duke's punctuality as to the time and place of meeting, the particular dress his grace was in, and assigns that as the reason of not speaking to him the Sunday before: so you see, gentlemen, that circumstance, which was a little unaccountable of itself, of the Duke's not being owned by the person whom he had seen on the Sunday before, is by the second letter accounted for;—"The pageantry of being armed, and the ensign of his order." He had then only a star on, and that perhaps an old one, so as not to be conspicuous: so that this accounts for the person's not speaking to the Duke in Hyde Park. There can be no doubt at all, but that the writer of the second was the writer of the first letter.

The consequence then of this second appointment to meet the writer of the letters in the west aisle of Westminster Abbey, you will observe public places were appointed, and at public times; the first in Hyde Park, the second in prayer-time at Westminster Abbey, where the Duke was "by his sagacity to point out the person"—the writer of this letter. The Duke accordingly went to Westminster Abbey, to the west aisle (though indeed, properly speaking, we don't know which to call the west aisle, the church standing east and west). His grace went to the western-most part of the Abbey, and observed nobody lurking or standing in circumstances suspicious: after a little time, his grace was surprised to see that the same person, whom he had seen the Sunday before exactly at the spot in Hyde Park, appeared just in this place at the west end of Westminster Abbey; but he was surprised the more, that this person did not speak to him. Perhaps his grace had not then considered the tenor of this letter; for it was not to be expected, that the writer would address the Duke, but rather refers to the Duke's sagacity:—"Your sagacity will point out the person;" it then directs, "whom you will address by asking his company to take a turn or two with you." His grace perhaps did not consider this exactly; but waiting some time for the person to speak to him, and finding he did not, his grace asked him, "Sir, have you any thing to say to me?"—"No, my lord." "Have you nothing at all to say to me?"—"No." "Have you nothing at all to say to me?" No, he had nothing to say to him. Now

I should have mentioned to you, when this person came into the Abbey, another person came in with him, who seemed by his appearance to be a substantial tradesman, a good sort of man. These two persons, after stopping and looking about at the monuments near the west gate of the Abbey, the Duke being sure one of them was the same man he had seen before in Hyde Park, his grace thought proper to go and stand by them, to see if that person would speak to him. Seeing the duke took no notice of him, they both went towards the choir: the stranger went into the choir, and the man that his grace had seen in the Park, came back again (leaving his friend there) to the spot where the duke was. The duke then asked him, whether he had any thing to say to him? No, he had nothing at all to say to him. No, he had nothing at all to say. Then the duke walked a little on the other side of the aisle, to see whether the man would follow him, or had a mind to speak to him at another spot. He observed the man looked eagerly at him; may-be it may be understood, he expected the duke's "sagacity would point out the man." However, the duke did not do what the letter required, that is, ask him to take a turn with him.

At this second time there was somebody that was with the duke (when I say with him, I don't mean close to him, but) near enough, so as to take notice what passed, in order to apprehend the person, so as to put it beyond all doubt that he was the author of those letters. The duke, and this attendant of his, went out at the west door of the Abbey, in order to go to his coach. Now you will find by-and-bye, in the next letter, that the writer of these letters took notice of this attendant, but was under no apprehension of being watched by any body else; and that will account for those circumstances I am going to mention: as soon as the duke went out of the Abbey, that man, whom the duke had seen at both these places, watched the duke out of the Abbey, and as soon as his grace had passed the door of the Abbey, he went up, hid himself in a corner, concealed from a possibility of being seen by his grace in case he had looked back, and so watched him into his coach. It may be asked, why his grace, upon having such clear conviction in his mind, that that person must be the writer of both the letters, did no apprehend him? his grace will tell you, he did not think himself justified in so doing; he could not reconcile it to his own mind to take up a man, where there was a possibility of his innocence.

Gentlemen, a few days after this, came a third letter to the duke, wrapped up in a very small compass, and directed to his Grace the Duke

of Marlborough at his house. You will see, by comparing the direction, that this third letter was wrote by the writer of the first letter: It begins, "My lord, I am fully convinced you had a companion on Sunday." So far it is proved, that the writer of these letters was in the Park on the first Sunday, and saw the duke there; and was in the Abbey on the second Sunday, and saw the duke there; and that it was the same man that the duke saw at both these times.—"I interpret it as owing to the weakness of human nature: but such proceedings is far from being ingenious, and may produce bad effects, whilst it is impossible to answer the end proposed."—Guarded through all. "You will see me again soon, as it were by accident, and may easily find where I go to; in consequence of which, by being sent to, I shall wait on your grace, but expect to be quite alone, and converse in whispers. You will likewise give your honour, upon meeting, that no part of the conversation shall transpire."—So that you see, as he was guarded before, he was determined to make it impossible to be discovered: if they were to converse in whispers, and to be quite alone, it was impossible for other evidence to rise up against him—"These and the former terms complied with, insure your safety; my revenge, in case of non-compliance, (or any scheme to expose me) will be slower, but not less sure, and strong suspicion the utmost that can possibly ensue upon it."—You see, how artful he had contrived it: he was determined that nothing more than strong suspicion should ever be in evidence against him—"While the chances will be tenfold against you. You will possibly be in doubt after the meeting, but it is quite necessary the outside should be a mask of the in. The family of the Bloods is not extinct, though they are not in my scheme."—The word Bloods is in capital letters. That is a dreadful name? As Felton was the villain who assassinated the Duke of Buckingham, so this is the name of the fellow who seized the Duke of Ormond, and was going to carry him to Tyburn to execute him, and also who stole the crown out of the Tower of London.

You see, gentlemen, by this third letter, that the duke was to expect to hear something farther from the writer of these letters. It contains no appointment, but leads the duke to expect he shall see the writer again as by accident, and was to observe where he should go to, that the duke might know where to send for him; and that he would come in consequence of being sent for; but when he came to the duke the terms were, to be a secret conversation, not in the presence of a

third person, and that too by whispers, and the duke promising, upon his honour, that no part of it should transpire, without which he was not led to think the writer should disclose anything at all. The first letter was dated and received the 29th November, the second received the next week, the third in the second week of December, and the last was some time in April.

The duke waited, expecting to hear farther; but heard nothing more until the middle of April. About the 14th there came a letter to his grace, wrote in a mean hand, but not in imitation of a print hand, as the others were. These are the words of the fourth letter:

"*To his Grace the Duke of Marlborough.*

"May it please your grace; I have reason to believe, that the son of one Barnard, a surveyor in Abingdon-buildings, Westminster, is acquainted with some secrets that nearly concern your safety: his father is now out of town, which will give you an opportunity of questioning more privately. It would be useless to your grace, as well as dangerous to me, to appear more publicly in this affair.—Your sincere friend, ANONYMOUS."

"He frequently goes to Storey's-gate coffee-house."

Gentlemen, the duke sent for Mr. Barnard, the son of Mr. Barnard, according to the directions in that letter. This letter, you will see, bears no date at all; no memorandum, or any thing which could possibly indicate when the letter was sent, or when the duke received it. The duke, when Mr. Barnard came, was sitting in his room; and though upon opening the door of the outer room (which was at three score yards distance from where the duke was,) yet the moment Mr. Barnard entered the room, he was sure that was the man he had seen both in the Park and in the Abbey. Though the duke had no doubt in his own mind on the former circumstances, that the person whom he had seen before was the writer of the first letter, now he was fully convinced that he was the writer of all the letters. The duke was determined the scheme should not so far take effect, as to engage himself upon his honour, that no part of the conversation should transpire; if so, nothing could have prevailed upon him to prosecute: therefore you are not to expect he complied with a conversation in whispers, and a promise on the duke's part, that no part of the conversation should transpire. The third letter will tell you, that the person that entered the room was the writer of all these letters. As soon as he came into the room, the duke took him to the window, and asked him, whether

he wanted to speak with him? "No, my lord."—"No, Sir! I have received a letter, which tells me, that you are acquainted with some circumstances that nearly concern my safety."—"Not I, my lord." "This is very surprising, Sir! this is the letter;" and showed him the last letter. Still the duke had not given him any promise at all of not exposing the conversation. "Sir, it is very odd that you should be pointed out to me, to acquaint me with some circumstances relating to my safety, because it mentions some circumstances as to the time, the place where you are to be found, your father's being out of town, and the like." The prisoner incautiously said immediately, "My lord, my father was out of town at that time."—"At what time, Sir? The letter bears no date, nor have I mentioned to you a syllable when I received it: how came you to know when I received this letter, that you should tell me, your father was not in town at that time? You speak clearly, as knowing when I received this letter; therefore give me leave on this occasion to tell you, that I do not only suspect you know of this letter, but that you have sent to me some other letters that I have received before:" then acquainting him with the other three letters, his grace observing upon them, that it was very odd and strange, that the letters corresponded so exactly and decisively on him, he being always at the places at the time appointed, and that he being the person named in the fourth letter too, and that he knew the time of the duke's receiving that letter, the duke put it upon him, "Sir, I am surprised at the writer of this letter; one should suppose from the style, and its being grammatically wrote, that the person who wrote it, had had some share of education; at least I am surprised that a man that has had any education at all, can descend to such a means of getting money." "My lord, your grace need not be surprised at that; a man may be learned and very poor." Very fond was he of softening things. "My lord, you need not be affrighted: I dare say the writer of these letters is a very mad man." "Why! you are very much concerned to apologize for the writer hereof," said the duke. Picking out this circumstance, the man does not know me, he expresses his very great surprise at my appearing in the Park with the ensign of my order, and my being armed—as incautious as he had been before, he is incautious upon that too, and said, "Indeed I was surprised to see your grace armed." "Was you so?" said the duke. "Was you surprised to see me armed? Can any man doubt a moment who wrote these letters? But, however, Mr. Barnard, as you insist upon it, and declare so

solemnly your innocence, I will not so far invade the laws of hospitality, whatever crime you have done." (He would not for the world apprehend a man in his own house whom he had sent for; he let him go safe home again; it was for that reason he would not give his promise not to reveal the conversation; but in regard to the public he was determined to prosecute.) The duke said to him, "Sir, if you are not the writer of these papers, it much becomes you to find out who is; for your name is particularly mentioned in this last letter; either you are the writer, or allow me to say, somebody else owes you very ill-will that was the writer of them." I am relying merely on the terms of the last letter, wherein he was to inform his grace of things that nearly concerned his safety, so much to the hazard of his own life? What became him, as having a regard to his own reputation and safety? To determine, as far as in his power, to find out the writer; nay to have given the duke assurance that he would do it: instead of that, what was his behaviour? A smile of contempt—an unmannerly laugh in the duke's face, as if it did not concern him at all.

Gentlemen, I should think that to this there can hardly be a circumstance added more clearly to convince any man alive of the circumstances of this man's being the author of these letters; but you will find afterwards the prisoner (for what reason let him tell if he can) told his grace, he had desired his companion that was with him in Westminster Abbey to leave him: Why? "Because he thought the duke wanted to tell him of some place he had for him." Good God! how could he imagine he wanted to tell him of a place? A person whom he had never seen before he saw him in the Park, how could he expect that? This was his awkward reason for desiring his companion to leave him.

I beg pardon, if I have omitted any thing; these are the circumstances that have occurred to me on this occasion; they are so strong and necessary in the proof of the prisoner's guilt, that I will venture to say, it is much more satisfactory to an indifferent person, than positive testimony—the positive testimony of any man, as men are liable to mistakes, as mistake in time, a mistake in persons, will exceedingly vary the case; but variety of circumstances, which tally in their own nature, cannot lie or deceive.

This prosecution is commenced merely for the sake of justice; I am instructed to say from his grace, it is perfectly indifferent to him what will be the issue of the trial: he thought it his duty to come here, and leave it to his country to determine as they shall think proper."

The evidence, which bore out this address, and which was unshaken by cross-examination, need not be given here; but the extraordinary part of the story is in the prisoner's complete answer to the accusation. In his defence the prisoner merely said, "I am entirely innocent of this affair with which I am charged. I leave it to the Court and the jury, with the evidence that will be produced." He then brought the following testimony.

John Barnard was sworn.

J. Barnard. I am father to the prisoner at the bar.

What is his employ?—He is employed in my business as a builder and surveyor principally; in not only that, and drawing plans, but also in receiving great sums of money.

Have his accounts always stood right and clear?—They always have.

Do you look upon him to be a sober man?—I have had great reason to believe him such, more particularly lately.

Has he been possessed of large sums of money?—He has, of considerable sums; I have oftener asked him for money than he me.

Had you any occasion to send him to Kensington on Sunday the 4th of December?—I had nothing, but circumstances brought the day to my mind since: I gave him an order on that Sunday morning, when we were at breakfast, to go to Kensington, to know whether there was some money paid by the treasurer of the turnpikes for gravel: I have a brother there, named Joseph; he went there and did his business, and dined with my brother.

How do you know that?—Because he told me so; and the solicitor of the turnpike told me he had been with him, and in consequence of which I had my money afterwards.

Have you ever heard your son take any notice of his meeting with the Duke of Marlborough that day?—When he came home, he told me, he had met the Duke of Marlborough, and these circumstances of his grace's taking notice of him; he mentioned it as an extraordinary thing. I asked him, if he had not looked a little impudently (as he has a near sight) at him, or pulled his glass out?—He said, he saw another gentleman at a distance, and the duke was armed; and he imagined there might be a duel going forward; he has from that time to this mentioned it as a very strange event several times in my house, without any reserve at all.

Cross-examination.

At the time you sent your son to Kensington on the 4th of December,

suppose you had not given him an order to go there, whether he was not at liberty to go where he pleased?—Yes; I never restrain him.

Did he say he was surprised to see the duke without a great coat?—I cannot remember that particular.

Did you hear him mention his seeing the Duke of Marlborough in Westminster-Abbey?—I have very often, and very publicly, and with some surprise; as he has that in Hyde-Park. I said to him, I would not have you be public in speaking of things in this kind, lest a use be made of it to your disadvantage.

Thomas Barnard sworn.

T. Barnard. I am first cousin to the prisoner at the bar. On Saturday the 3rd of December I was at Kensington, and lay at my uncle's house there and dined there. On the Sunday the prisoner came there before dinner, he said he had been to do some business that way. He dined with us; there were my uncle, aunt, he and I; he related that circumstance to us of meeting with the Duke of Marlborough in Hyde-Park; he said he rode up to him, and asked if he knew who he was; he answered, No; he replied, I am the Duke of Marlborough. He related it with some cheerfulness, though as a matter of surprise.

How long have you known the prisoner?—From his birth: he is in business with his father; I always understood he would succeed his father; I never knew him to behave any otherwise than well in my life. I never thought him extravagant, nor never heard so; I had always looked upon him to be an honest man; his father is in very great business.

Should you look upon it, that a small place would be equal to the chance of succeeding his father in his business?—I should never have thought of such a thing; I looked upon his situation in life to be a very extraordinary thing: I thought he would give the preference to that above any thing else.

Cross-examination.

Do you think he would refuse a good place?—No man would refuse a place that is to his advantage.

Joseph Barnard sworn.

J. Barnard. I am uncle to the prisoner at the bar; I live at Kensington; my nephew, Thomas Barnard, lay at my house on the Saturday night, and dined with the prisoner at the bar on the Sunday. I remember he then mentioned having met with the Duke of Marlborough in Hyde-Park, while we were sitting at dinner. I said I was surprised

he should meet with him that day; he said he saw but one gentleman at a distance, and the duke was armed; and his grace looked him full in the face, very earnestly (which he seemed to speak with a great deal of pleasure to me); he is very near-sighted, he can see nothing at a distance without the use of a glass. I have heard him since speak four or five times of seeing the duke in Westminster-Abbey.

How long ago?—About a month ago. He is brought up under his father in very considerable business, and a man of some property besides, and was employed as his clerk or book-keeper.

Is he a sober man?—Very sober; I never heard to the contrary; neither did I ever hear his father speak of him as idle or dilatory.

Thomas Calcut sworn.

T. Calcut. I live at Kensington: I remember the prisoner coming there on a Sunday morning; a very cold, foggy morning: with some message from his father to me, to know whether the solicitor had paid some money or not. He was under his father, as I am under mine; he desired me to go with him; I said, stay and dine with me: he said, he could not promise, because he had promised to dine with his uncle Joseph: he went into the parlour, and said, it is vastly cold: there has been the oddest accident happened as I came over the Park! the Duke of Marlborough came up to me, and asked me, if I knew him? I said, No. He asked me, if I wanted any thing with him?—I told him, No. He said, I am the Duke of Marlborough, if you want any thing with me; then the duke went away, and he came there. He expressed a great surprise at it, and I thought it a very odd affair.

Henry Clive, Esq. sworn.

H. Clive. I have known the prisoner two years; I remember dining with him on the 8th December, at his father's house, with a great deal of company; I heard him then say at dinner, that some few days before, he had met the Duke of Marlborough in Hyde-Park; that the duke asked him, if he had any business with him? He said, No; he then told him who he was, and asked him the same again; he said, No That the duke seemed in some confusion, and was armed; and he thought he was about a duel; and indeed I thought it was a very great lie. I have gone very frequently to his father's in relation to Brentford Bridge. I have no other acquaintance with him, only going to his father's, so cannot say any thing to his character, either frugal or extravagant.

Can you name any body that dined there that day?—Yes, there was

Mr. Wilson and his lady, Mr. Tunstall and his lady, another gentleman and his wife, and the prisoner's younger brother that is at Westminster school.

Mrs. *Mary Wilson*, sworn.

Mrs. *Wilson*. I dined at Mr. Barnard's on Tuesday the 8th December; the prisoner I remember said he had been in Hyde-Park some days before, and there he saw a gentleman on horseback come up to him, and ask him, if he had any thing to say to him? He said, No; then he said, I am the Duke of Marlborough, now you know me, have you any thing to say to me? He said, No. He talked of this very freely to us all.

James Greenwood, sworn.

Greenwood. I live at Deptford, with a relation in the brewing-way; I came from Deptford on Saturday to the prisoner's father's; and on the Sunday following I was there at breakfast; I solicited the prisoner to get himself dressed to go with me into the Park, being to meet a person at twelve o'clock; I with a good deal of difficulty got him to dress himself; I put my shirt on in the parlour, and after that he put on his; I fancy we breakfasted about nine o'clock; when we got to the end of Henry VII's chapel, the prisoner would have gone the other way into the Park without going through the Abbey; I took hold of his sleeve, and said, Barnard, you shall go through the Abbey; this was a little after a eleven; this was no unusual thing; we have several times walked in the Park, and sometimes parted.

Which is the nearest way to the Park?—I do not know which is the nearest way, through the Abbey, or by the side of it; this was the first time I believe that I ever saw the monument of General Hargrave. After that, we walked to the monument erected at the public expence for Captain Cornwall; the preacher was in the pulpit; when we were standing at Captain Cornwall's monument, the prisoner made some observation on the execution of it in his own way. After we had stayed there some time, I saw his grace the Duke of Marlborough, who was got pretty near us; upon seeing the duke, I jogged him by the elbow, and said, step this way; he seemed to look at him.

Had you heard what happened in Hyde-Park, previous to this?—I had; I believe it was told me by the prisoner at the bar; on my jogging him we walked up the middle aisle towards the choir. I said, Did you see that gentleman in the blue coat, or do you know him? No, said he, not I, No, said I, it is the Duke of Marlborough; we will walk to the monument again. The duke came, and placed himself pretty near

me a second time; after this we walked away. I believe we walked some considerable time in that aisle in which is the monument of Sir Godfrey Kneller; there I believe we passed and repassed again.

Why did you jog him?—Because he is very near-sighted. At last, I think it so happened, we passed the duke between two of the pillars; and as I had hold of his arm walking together, there was barely room for three people to pass a-breast; the duke rather gave way, and made, as I thought, a kind of a bow. Upon this I said, the Duke of Marlborough's behaviour is extremely particular; he certainly has something to say to you; I suppose he does not choose to say it while I am with you, I will go into the choir, and do you walk up and down here, and he will possibly speak to you. While I was there, I looked; the first thing I saw was the Duke of Marlborough and the prisoner at the bar, with their heads bowing together, as if it was the first salutation.

Had the prisoner the least inclination to go into the Abbey before you proposed it to him?—No: he did not discover any.

Did he discover any inclination to be left alone, when you proposed to go into the choir?—No, he did not in the least; in some few minutes after, the prisoner and I met together, he told me the Duke of Marlborough was gone out of the Abbey, he had seen him go out. I said, what passed? To which he replied, the duke said, did you speak to me? or who spoke first I cannot tell.

In this transaction did the prisoner appear openly, or if he had some secret transaction to do with the duke?—No, it was open and clear.

Did you see the duke come in?—No, I did not; we were employed in looking at the monuments; we looked at several.

What did you do when you first came in?—We walked along, and looked on the monuments.

Did you see the prisoner's eye fixed on any person?—No, I did not.

Is Mr. Barnard very near sighted?—He is; I question whether he can be able to see a person across this room.

Where did you go, when you went out of the Abbey?—We went immediately into the Park; and after walking there, we met with two ladies whom I knew, and to whom Mr. Barnard was not unknown, to whom we related this affair; he always repeated these things, that is, this and that in Hyde-Park, as matter of great curiosity.

How long have you been acquainted with him?—I have been acquainted with him seven years.

What is his character?—I know nothing to the contrary but that he is an industrious, sober young man.

Did you ever hear that he was a profligate, expensive man?—No, never.

His father is in great business, is he not?—His father's business is a very considerable thing.

William Ball, sworn.

Ball. I am the master of Storey's-gate coffee-house; I remember Mr. Merrick coming to my house, to enquire for Mr. Barnard; he asked me, if Mr. Barnard was at my house? I said, leave any message, I will deliver it to him; he said, he wanted to see him that evening; he left his message, I delivered it to him, and he came rather before eight o'clock to him. He has used my house some years, always a well-behaved man; I never perceived any extravagancy in him, always a sober, regular man. I have heard him speak of having met the Duke of Marlborough, but not till after this: he said he had been to his grace, at his grace's house; this was as he called at my house, after he had been there.

Did he mention what had passed?—No, he did not; only that he had seen his grace.

Cross-examination.

Did he not tell you any thing that passed?—He did not tell me a syllable of it.

What did you say to him?—I told him, may-be he was going to have a commission; he said, he would not thank his grace, except it was a very good one.

How did he appear as to cheerfulness, or dullness, or the like?—He seemed to be very cheerful, not in the least concerned; the same as usual, composed, rather more cheerful.

Counsel. We will now shew his behaviour after he was apprehended.

Mr. *Ford.* While he was in custody, Mr. Fielding did me the honour of sending for me; he told me it was upon some business which concerned the Duke of Marlborough's life; he asked me to go along with him and Mr. Box to New Prison, which I consented to; we went together in a coach; this was about twelve at night, and Mr. Barnard was then in bed; I have really forgot what day it was: Mr. Fielding told him, he had omitted examining his pockets at the time he was before him; he then searched his pockets, in order to see whether he had any letters, or any writings that might give light into the affairs; he very readily let me look into his pocket-book and papers. Mr. Fielding with great candour told him, he was in the hands of a very honourable pro-

secutor, and one that would be as glad to discover his innocence as his guilt. Mr. Fielding asked him for his keys, and he gave him the keys of his scrutoire and compting-house with great readiness; and I remember that I then told him, that, if he was guilty, some copies might be found to correspond with the original letters; and if nothing of that sort did appear, it would be a circumstance in his favour.

Did you or Mr. Fielding tell him he was not obliged to part with his keys, and did he do it as a matter of choice?—I do not recollect that; I know he parted with them very readily.

The Rev. Dr. *Markham*, sworn.

Dr. *Markham*. I have known the prisoner some years; I have always considered him as a young man of remarkable sobriety, and attention to business: I have had some experience of him; I entrusted him with the execution of some matters of importance relating to myself, in regard to surveying and valuing estates, in which he acquitted himself ably and honestly; that is the character he always had: he lives in my neighbourhood; his father is a man of considerable property, and carries on a large business.

Then you don't suppose the prisoner to be in distressed circumstances?—I never supposed it, I have no reason to imagine it; if he had come to me, wanting money, he might easily have imposed on me, he might have had any thing of me; he is one of the chief persons I trusted, and I don't know a man on whom I would have had a greater reliance; I thought him remarkably able in his business, and very likely to be a considerable man; and I never was more astonished in my life than when I heard this strange story.

Samual Cox, Esq. sworn.

S. Cox. I have known Mr. Barnard about the space of three years last past. The beginning of my acquaintance was on the account of his surveying of houses in the New-Square, Dean's-Yard; the surveys were generally made by him; he did his business with such accuracy, that I have always thought him a man very attentive to his business, and very unlikely of being charged with this fact; and upon his being employed upon public schemes, I employed him in my own affairs. I employed his father to finish some houses for me at Hamersmith, the son was constantly employed till the 6th of April last; I have at differe n times paid to Mr. Barnard about £700 all paid into the hands of the prisoner, except £50 or £70 of it. He has appeared as the person that managed his father's business: if he had come to me, and mentione

any want of money, upon his father's being out of town, or that like, he might have had £200 or £300 at any time. When I first was acquainted with him, I observed he had a remarkable short sight; when he has looked full at me, I have thought he sneered at me; he has such a fall with his eye-lids on the account of his short-sightedness; I have found his eyes so fixed upon me, that I have been going to speak to him, which by my long acquaintance with him I since found was only an accident.

Robert Vansittart, Esq. sworn.

R. Vansittart. I have known Mr. Barnard about five or six years; my acquaintance with him was by being acquainted with his father, who was employed in carrying on a large building for Mr. Lee, an acquaintance of mine in Oxfordshire; and these five years I have been acquainted with the son, and frequently in company with him. In the beginning of April he was in my chamber, putting up some book-cases; I remember one morning at breakfast he told me the circumstance of meeting the Duke of Marlborough in Hyde-Park and in Westminster Abbey, in the same way as the Court has been told from his grace and the rest of the witnesses: it appeared to me to be a very strange story, and he seemed to tell it as such, as I or any body else would have told it. I suspended my judgment upon it, and never related it to any body, only to my father and another gentleman, and they looked upon it as a great lie that Barnard had invented; I, knowing his character, did not take it as such, but thought he must have known it to be as he said.

What is your opinion of him as to his business?—From my own personal acquaintance with him, and from the many surveys I have seen of his, he certainly is very capable and master of his business. I never heard any thing ill as to his private character.

Did you ever see him write?—No; he draws very well; I have seen him draw.

John Smith, Esq. sworn.

J. Smith. I have known him eight or ten years, and his father's family twenty-five. He always appeared an industrious, sober, diligent man, particularly within these four or five years, since he has come into business with his father. I considered him as a very promising genius in his way, and one capable of conducting his business with reputation and character.

Did you look upon him likely to be driven to distress, or in want of a place?—No, I did not. I can with great truth say, most of the payments in my compting-house, on his father's account, have

been paid by the hands of this young man; except the last £500; then Mr. Barnard and his wife came over and dined with me, and paid it; and then I blamed him for not bringing his son.

What are you? I am a timber merchant.

Joshua Smith, Esq., sworn.

Josh. Smith. I am in partnership with my father, the last evidence. I have known the prisoner several years; I always thought him a very honest, sober man, capable in his profession: the money that has been paid to us lately, except that £500, has been by him; they never paid less than £100 at a time, except once.

Have you any reason to imagine him in desperate circumstances?—There is no reason as I know of to imagine so.

Robert Tunstall, Esq. sworn.

R. Tunstall. I have known him two years.

What is his general character?—He is industrious, and very capable of his business. His behaviour has been prudent; he is the principal man in his father's business in drawing and scheming.*

Mr. *Peter Brushell* sworn.

P. Brushell. I have known him from a child.

What is his character?—I always took him to be a very sober, honest man. His father has done a great deal of business for me, and is now at work for me.

Whom did you generally pay the money to?—I generally paid the father; if the prisoner had applied to me, I would have let him have £100 at any time.

Is he capable of business?—He is very capable: he drew a plan for me last Saturday was se'nnight.

Did you look upon him to be in desperate or distressed circumstances? No, I did not.

Has he always been a visible man?—Always.

Mr. *Jelfe*, sworn.

Jelfe. I am the king's mason. I have known the prisoner seven years or more.

Do you look upon him to be capable of his business?—I believe he is a very capable man in his business.

What is his general character?—Always a very worthy, honest man.

Did you ever see him guilty of any extravagancy?—No, never.

* Mr. John Barnard, the father of the prisoner, built Kew Bridge for this Mr. Tunstall.

Do you live near him?—I am a very near neighbour to him, and keep him company on evenings, within this year or two more particularly.

William Robinson, Esq. sworn.

Robinson. I have known him about six or seven years.

Is he a person capable of his profession?—I believe he is.

What has been his behaviour?—I always looked upon him to be a very sober, diligent, frugal man.

Did you look upon him to be in desperate circumstances?—No, not at all.

Thomas Kynaston, Esq. sworn.

Kynaston. I have known him six or seven years.

What are you?—I belong to the board of works.

What is your opinion of the prisoner's situation?—I think he is in a good one.

What has been his behaviour?—That has been always good.

Mr. *Keynton Cowse*, sworn.

Cowse. I have known him seven years, and been in his company many times.

What is his character?—He is a very worthy young man, sober and industrious, always attending his father's business.

Mr. *Uffort*, sworn.

Uffort. I have known him about six or seven years; he is a sober sedate young man as ever I met with. I have done business for him several times.

Mr. *Brent*, sworn.

Brent. I have known him upwards of three years.

What is his character?—He has a good character; he is a very industrious man. I have frequently paid him money.

Mr. *Jones*, sworn.

Jones. I have known him several years.

What is his general character?—He is very honest; no ways extravagant, that could lead him into a desperate state; he is as moral a man as any I know, and has had as good a character.

Mr. *Wilson*, sworn.

Wilson. I have known him about seven years.

What has been his behaviour during that time?—It has been always very well. I always looked upon him as an honest man.

Did you ever look upon him to be in a desperate way in his fortune?—No, never.

Q to Mr. *Barnard* the elder. Where was you when your son was sent

for to the Duke of Marlborough's?—Mr. *Barnard.* I was then out of town. I have not been in town above one week these five or six weeks.

Mr. Sergeant Davy, evidently shaken in his own mind by these witnesses, commented in his reply with much acumen, though fairly, on the evidence; when he had concluded, the jury at once acquitted the prisoner, and a second indictment against him was then abandoned by the prosecution. To complete the mystery, the Duke died within the year of the period of this investigation, *before the session had expired,* and the matter remains to this day unexplained.

THE CELEBRATED EJECTMENT CASE BETWEEN JAMES ANNESLEY AND RICHARD EARL OF ANGLESEY.

This trial, which took place in the Court of Exchequer in Dublin, commenced on the 11th Nov. 1743, and lasted fifteen days. The investigation brought to light facts the most singular and romantic that ever perhaps occupied a court of justice. In the following account of this strange and mysterious transaction, the story will probably be rendered more clear and interesting to the reader by first exhibiting an outline of the pedigree, and by then giving extracts from the narrative published at the time and from the trial itself, disencumbering the whole of the mass of prosy and unreadible matter in which the original details were enveloped. To commence therefore with the lineage, as far as necessary for the story.

Arthur Annesley, second Viscount Valentia in the county of Kerry, was the descendant of the ancient and knightly Nottinghamshire family of Annesley. He had succeeded his father, Sir Francis Annesley of Newport Pagnel, Bucks, who had gone over to Ireland in the reign of James I, had been a distinguished statesman there, and was eventually created Viscount Valentia. Arthur, the second Viscount, was also an eminent nobleman in Ireland, and, in addition to his Irish titles, was created a peer of England in 1661, as Baron Annesley and Earl of Anglesey. He married Elizabeth, daughter and coheir of Sir James Altham, Knight, of Oxey, Hertfordshire, a Baron of the Exchequer, and dying in 1686, left with other sons and daughters, the following issue.

1. James, his successor, as second Earl of Anglesey.
2. Altham.
3. Richard, in holy orders, Dean of Exeter.

The second of these sons, Altham, was created an Irish peer in 1680, by

the title of Baron Altham, with limitation to his younger brothers: he died 1699, leaving an infant son, the second Lord Altham, who did not long survive him, and consequently his honours were inherited by his third brother,

Richard Annesley, Dean of Exeter, who thus became third Lord Altham. This nobleman dying in 1701, left two sons, Arthur and Richard.

The elder, his successor, Arthur, fourth Lord Altham—and to him we call the reader's particular attention—married Mary, illegitimate daughter of John Sheffield, Duke of Buckingham, and was supposed to have died issueless in 1727. Of this fourth Lord Altham, however, and his wife Mary, JAMES ANNESLEY, the hero of this romantic history, proved himself, as will be hereafter seen, to be the son. Yet at the time of the fourth lord's death, the knowledge of this fact was a secret, and consequently he was succeeded by his brother,

RICHARD ANNESLEY, fifth Lord Altham. This nobleman became also sixth Earl of Anglesey, on the demise, without issue, of his three cousins, the sons and successors of his uncle, James the second Earl. Richard, sixth Earl of Anglesey, had scarcely assumed all these dignities, when a claimant to the honours arose in the person of James Annesley, who asserted himself to be the son of Arthur, fourth Lord Altham, by Mary his wife, and a publication appeared entitled "the Adventures of an Unfortunate Young Nobleman." This sets forth his case in so curious and interesting a narrative, being, as was afterwards proved, true in the main, that following extract is here given from it, the length of which needs no opology, as the tale it unfolds may well stand in rivalry with many a marvellous legend, the mere offspring of a fertile imagination.

"James Annesley, whose life, it seems, was an obstruction to the grant of some leases, which the extravagance of the baron his father made necessary, was therefore removed from a public, to a very obscure school, and letters were written to corroborate a report of his death, and of that of the baroness, who had been forced to retire for subsistence, to the duke her father in another kingdom. After which the baron her husband married a woman who happened, amidst a variety he had tried, to please and fix him.

On his father's ceasing to pay for his board at school, this young nobleman began to feel his misfortunes. His clothes grew ragged and too little for him, his fare coarse and scanty, no recreations allowed, never looked upon but with frowns, nor spoke to but with reproaches, con-

tinually reprimanded, often cruelly beaten, sometimes barely for not doing what none took the pains to instruct him in. While others of his age were at their school exercises, he was employed either in drawing water, cleaning knives, or some servile office. Thus he continued for more than two years, when growing more sensible of his ill usage, he began to murmur, but was told that he was kept only on charity, and if he liked not that way of life, he might seek a better; the poor innocent thinking he could not fare worse, without clothes, money, or the least hint given him where to find his father, turned his back upon that scene of woe, travelled, without knowing where to go, till he came to a small village. His tender limbs being much fatigued, for he was but turned of ten years old, he sat down at a door and wept bitterly for want of food; a good old woman relieved him with some bread, meat, and butter-milk, which enabled him to pursue his journey, till he arrived at the capital. Here friendless and hungry he fell again into tears, which not availing him, he was obliged to beg, and by his modest deportment obtained some relief, and at night took up his lodging in a church porch. Next morning, recollecting that his school-master talked of writing to his father in this city, he went from one street to another, enquiring for the baron. At length he was informed that his lordship had retired from town some time, none knew whither, on account of his debts. Our noble wanderer, now without hope, hunger pressing, and some churlish people threatening him with the house of correction for asking relief, he took to running of errands, and procured a mean subsistence, after the manner of other poor boys. It happened one day, some boys fell upon him and beat him severely, calling him dog and scoundrel, words he could less bear than the blows; he answered, They lied,—he was better than the best of them, his father was a lord, and he should be a lord when a man.—After this he was in derision called my lord, which the mistress of the house hearing, called him, and seeing he had no deformity to deserve the title, as vulgarly given, Tell me, says she, why they call you my lord. Madam, replied he, I shall be a lord when my father dies. Ah! said she, who is your father? —The baron of A—— and my mother is the baroness of A——, but she has left the kingdom, and they say I shall never see her again.— Who tells you all this?—I know it very well, I lived in a great house once, and had a footman, and then was carried to a great school and was reckoned the head boy there, and had the finest clothes: afterwards I was carried to another school, and there they abused me sadly, because they said, my father would not pay for me.--Why do you not go to

your father?—I don't know where to find him, answered the poor innocent, and burst into tears.—Do you think you should know him?—Yes, very well, though it is a great while since I saw him, but I remember he used to come in a coach and six to see me, when I lived at the great school. Moved at this account, but willing to examine him more strictly, she said, You are a lying boy, for that lord's son is dead. He replied, Indeed I tell the truth, I never was sick, but once when I had a fall and cut my head, and here is the mark, putting his hair aside, and my father was very angry with those who had the care of me. The woman, who had kept an eating-house, to which his father sometimes came, having heard that his son and heir was dead, felt no little surprise to see the child reduced to so miserable a condition. She knew enough of the extravagance and necessities of the father, and that certain leases on which money was raised, could not be granted while this son was publicly known to be alive; and not doubting his innocent assertions, gave him not only food but clothes, and promised to write to his father.

In the mean time his uncle came to the house, and the good woman told him what she had heard and done. He said, it was an imposition: for his nephew was dead; I mean the boy that was called my brother's son; for though his lady had a child, he was not the father.—I can say nothing to such a distinction, replied the woman, but as he was born in wedlock he must be the heir, and ought to be educated in an agreeable manner.

The uncle desired to see him, who, being new clothed, and having beautiful hair, came in with an engaging mien, and most respectful behaviour to his benefactress, as well as to the gentleman, as he appeared to be of distinction, who instead of being moved with compassion, sternly cried out, What name is this you take upon you?—I take none upon me, Sir, but what I brought into the world with me, and was always called by. Nobody will say but I am the son of the baron of A——.—By whom? demanded the gentleman.—By his wife the baroness of A——, replied the other, with more resolution than could be expected.—Then you are a bastard, cried the uncle, for your mother was a reprobate.—If I was a man you should not use my mother or me thus, whoever you are, said the child with tears in his eyes, which moved the woman of the house to intercede for milder treatment.

The child said at last he knew the gentleman was his uncle, for he came once with his father to see him at school, but the good uncle replied, he knew nothing of it, and went out of the room, the woman

followed, and entreated him to consider his nephew, and not refuse him a proper education. He promised to speak to his brother, but desired her to keep the affair private. He was indeed as good as his word, informed his brother of the condition his nephew was in, but observed further, that although some care should be taken of his education, it would be of ill consequence, on account of his leases, were he known to be alive, before the baron's decease. He therefore advised St. Omers, or some place beyond sea, where he might be trained up at a small expense. The baron readily approved this advice, and gave his brother money to reimburse the woman, and for further expences. The uncle took the conduct of the whole affair upon himself. The first step he made was to agree with the master of a ship bound for Pennsylvania, for a sum of money paid down to transport a boy thither, and sell him to the fairest bidder. To palliate the villainy he told the captain, the boy was the natural son of a person of condition, but had vilely behaved, and as he deserved no regard on that score, his friends were loath to suffer disgrace by him, therefore chose to send him out of the way of temptation. Then he returns to the woman, tells her the boy was to embark forthwith for St. Omers, and takes him away with him: mean time the vessel not being ready to sail, he lodges him in a private house, at his devotion, where the boy was kept concealed till things were ready for his embarkation. Soon after the baron was taken ill and died. The worthy uncle immediately took upon him the title of baron, with the estate appendant on it: the baron's sudden death is supposed to be the cause why he made no declaration in behalf of his son, on his death bed. Meanwhile the unhappy youth, now real baron, was kept too close a prisoner to hear one word about it. Being told by his uncle that nothing should be wanting to retrieve the time he had lost, the hopes of future accomplishments gave him new life, he went on board the ship, and was easy and gay, till a storm arising, ruffled the pleasing prospect and filled his head with all the usual terrors that attend it.

The fears of death no doubt had such an effect on our young voyager, that though ignorant as yet of his misfortunes, he heartily wished himself on land. Alas, he little imagined the severity of his fate was yet to come!

The violence of the storm, which had lasted three hours, being abated, a cloth was spread in the captain's cabin, our young baron was going to place himself at the table, when one of the sailors checked him with—"Hold youngster, do you think you are to be messmate with the cap-

tain?" This sea jest, seconded by the loud mirth of two cabin boys, who attended, a little disconcerted our unhappy young nobleman. The captain saved him the trouble of a reply by saying: "The boy will not choose the worst company I find, where he left to himself, but he will know his distance better hereafter." This sarcasm plunged him into a silent confusion, during which he had the mortification to see the captain dine elegantly; after which he had his allowance of salt beef and pease given him in so coarse a manner, as might have acquainted him what he had to apprehend. He began to mutter that he thought himself ill used, and would acquaint the baron his father with it, which naturally raising the curiosity of the sailors, the captain in his own vindication related the story as he had it from the kind uncle, by which the young baron being fully apprised of his cruel destiny, it produced so visible a despair, that the captain thought himself obliged to confine him to the hold. But he mistook the remedy; the youngster's generous spirit was not to be tamed by ill usage. A disdainful sullenness succeeded; he obstinately refused all sustenance though pressed to receive it by beating, or swallow it by force. Arguments, menaces, and stripes were equally vain. The captain saw a necessity of changing his method, for his own interest. He sent for him into his cabin, apologized for the ill treatment he had received, as done without his warrant or privity, and assured him, when they reached the Indian continent, he would employ his good offices to place him to his liking, with other arguments to reconcile him to his captivity. But all that was urged had no effect on the young baron, till promised his case should be represented to his father. This assurance reconciled him to life, and the captain using him kindly, to fit him for the market he designed, our young exile landed well in Pennsylvania.

Here the captain repeating his former assurances, he was sold to a rich planter in Newcastle county, called Drummond, who immediately took him home, and entered him in the number of his slaves.

A new world now opened to him, and being set to the felling of timber, a work no way proportioned to his strength, he did it so awkwardly, that he was severely corrected. Drummond was a hard inexorable master who, like too many of the planters, consider their slaves or servants as a different species and use them accordingly. Our American planters are not famous for humanity, being often persons of no education, and having been formerly slaves themselves, they revenge the ill usage they received on those who fall into their hands. The condition

of European servants in that climate is very wretched, their work is hard, and for the most part abroad, exposed to an unwholesome air, their diet coarse, being either Poul or bread made of Indian corn, or homine or mush, which is meal of the same kind moistened with the fat of bacon; and their drink, water sweetened with a little ginger and molasses. Our young captive began to sink under his calamity, when he met with a comfortress in a female slave of near sixty, who had been perfidiously trepanned by a wicked husband, and sold to Pennsylvania. As she dressed the food for the slaves and carried it out to the field to them, she soon took notice of him, and her pity increased on hearing a story that so nearly resembled her own. She had a good education and was not unacquainted with history, so that her conversation afforded the young baron both consolation and instruction. She sometimes wrote short pieces of instructive history, on bits of paper which she left with him in the field, and to look over these he often neglected his labour, regardless of the blows, he knew he was to suffer, so eager he was to improve his mind. He regarded this slave as his mother, and was treated by her as a favourite child, but in four years she died, and left him in the deepest affliction for her loss. His master's continued ill usage, and the innate aversion he had to slavery, at last determined him to endeavour to make his escape. Yet he kept this resolution to himself, having little inclination to converse with his fellow slaves, whose manners were no way conformable to his own. However one of them who entertained the same design, observing his melancholy, broke his intention to him, and informed him that hearing a ship was ready to sail from Dover (a neighbouring port) to England, he resolved to take that opportunity and invited him to partake his flight. The young baron, after some questions, agreed to the proposal, and went early to bed, in order by day break to put their project into execution. But what was his surprise on awaking, contrary to custom, to find the day advanced, and the family in confusion. The other slave, Jacob, had robbed his master and fled with the booty. Messengers were dispatched in pursuit of him every way. How did the young baron bless his good fortune, that had saved him from such a danger, as being an innocent accomplice in Jacob's villainy! He shuddered at the guilt he might have contracted by partaking his flight. Jacob had not got twenty-seven miles when he was retaken with his master's effects, and brought back to receive the punishment he deserved, after which Drummond sold him to a planter at Philadelphia, as fearing he might take his revenge for what he had suffered.

The young baron was now seventeen, and had passed five years of the servitude, for which he was sold, when weary of the severity of his condition, in a sullen fit of despair he left the house of Drummond, resolved to suffer death, rather than be brought back. Thus armed with a hedging bill, he set out without knowing his course, and as he was active and nimble, had got some miles before he was missed. Immediate pursuit was made after him, but to no purpose. Three days he wandered in the woods, and having but little nourishment, grew faint, when he spied a river which he took for the Delavar, but was indeed the Sasquana, which parts Pennsylvania from the Iroquois nation. He also saw a town at some distance, but not caring to venture near the shore, he lay down at the foot of a tree, when fortune brought him a present relief to plunge him in new distresses.

It was now twilight, when he heard the trampling of horses on full gallop advancing towards him, and lifting up his eyes from his covert, perceived two men well mounted; one of whom had a woman behind, and the other a portmanteau. As these did not seem to be pursuers, his courage revived on hearing the foremost say to the woman behind him, "Come, my dear, it is time to take some refreshment, and this is a convenient place." With that he alighted, helped her off, and his attendant fastening his horse to a tree, took some meat out of one of his bags, and spread it on the grass, with a bottle of wine, and they all sat down to the refreshment, which our young baron would willingly have partook if he durst. However, in peeping at them he made a noise, that alarmed the servant, who starting up saw him, and cried to his master they were betrayed, at the same time striking at him with his drawn cutlass. He kneeling protested his innocence, and after repeating his story prevailed on the master to pity his misfortunes. They now invited him to share their repast, which he thankfully accepted, after which they told him they were going to Apoquenimink to embark for Holland, and would procure him a passage with them. This happy news made him forget all he had suffered, and gave him new spirits for his journey. They remounted, and he followed on foot; but they had not gone far through the woods, when they saw by the horses and lights behind them, they were pursued. The lady gave all the signs of the utmost consternation. "It is he, it is he himself," she cried, "we are lost for ever." The approach of the pursuers gave no time for deliberation. The lady jumped off, and hid herself amongst the trees. The gentleman and his servant drew, and the baron with his hedge bill, in gratitude thought himself bound to

assist the weakest side, but the combat was unequal, and they were surrounded and taken prisoners. The lady who had fainted, underwent the same fate, and in this manner they were conducted that night to a village, and the next day lodged separately in Chester gaol.

It was here, too late, the young baron was informed that the lady was the daughter of a rich merchant, who having an inclination for a young man beneath her rank, was by her father forced to marry against her will; but still keeping company with her first lover (the person taken with her), they agreed to rob her husband and leave the country, who having timely notice, had pursued them, and there was no doubt but they would suffer the rigour of the law.

The noble slave trembled at this relation, he saw the hazard of associating himself with strangers, and yet in the circumstances he was in he knew not how to avoid it.

The trial came on next morning. The lady, her lover, and servant, were condemned to die for robbery. The sentence of the young baron was respited, as he did not belong to the guilty persons, but he was remanded to prison, with orders that he should be exposed every day in the market-place to public view, and if it could be proved, that he had ever been at Chester before, he should be deemed accessary to the robbery and suffer death.

In this suspense he remained five weeks, when some affairs of traffic brought Drummond, his old master, to Chester, who immediately reclaimed him as his property. Before his departure, our young baron was a melancholy spectator of the execution of the three criminals, taken with him.

The fruit the young baron received from this attempt, was (by the laws of that country) to find the remaining two years of his servitude redoubled, and the severity of his master proportionably increased. However upon a complaint made to the justices of that province, attended with proofs of his ill usage, his master was obliged to sell him to another; but he gained little by this alteration in his condition. He bore it notwithstanding for three years with tolerable patience, but conversing with some sailors, who were returning to Europe, it awakened all his ardour for liberty, and he resolved at any rate to venture a second escape. His design proved again abortive; he was re-taken before he could get aboard, and though he had but one year to serve, he was condemned to suffer for five. This last disappointment and additional bondage quite sunk his spirits. He fell into a deep melancholy, which appeared in all his

deportment; so that his new master, apprehending he might lose him, began to treat him with less austerity, and recommended him to the care of his wife, who being a woman of humanity, often took him into the house, and gave him part of such provision as they had at their own table, or in his absence ordered her daughter (who was called Maria) to perform the same kind offices. This young girl soon conceived a great tenderness for the young baron, and endeavoured all the ways she possibly could to relieve his sadness, which was such as gave him no room to take notice of what otherwise he must have observed. It happened she was not the only one on whom the graceful person of our noble slave had made an impression; a young Indian maid of the Irokese nation, had distinguished him from his fellow slaves, and as she made no secret of her affection, used to express her kindness for him, by assisting him in his daily toils, telling him, if he would marry her when his time of servitude was expired, she would work so hard for him, as to save him the expence of two slaves. The young baron used all the arguments he could, to persuade her to stifle a passion to which she could hope no returns. It was on one of these occasions, that Maria, his master's daughter, surprised him sitting with this Indian maid, and jealousy awakening her love, she loaded him with reproaches, and left him without allowing him to make a reply.

Thus did our young baron in his captivity find himself the object of a passion, he had no taste or inclination for himself, and studied as much to shun the caresses of his two mistresses, as others would have done to return them. Unluckily Maria's impatience to see him, carried her one day to a field distant from the plantation, where she knew he worked. In her way thither, she met her rival, bent on the same design. The Indian, no longer mistress of herself, flew at her like a tigress, so that it was not without some struggle she got out of her hands, and fled towards the place where the noble slave was employed. The Irokese finding her revenge disappointed, and perhaps dreading the consequences of the other's power and resentment for the assault, made directly to a river adjacent, and plunging herself in, ended at once her love and her life.

Maria, who saw this catastrophe, was brought home to the house pale and speechless; she was put immediately to bed, and when she recovered, all she could say was to repeat the name of the Indian maid with great emotion. This, joined to the account of some slaves, who had seen all that passed between them, and who were witnesses to the Indian's fate,

greatly alarmed her father and mother. James only (the noble slave) guessed the real truth of the matter; and as Maria often mentioned his name, it was concluded by her parents to send him into her room under some pretence or other, and place themselves so as to hear what passed. This stratagem had the desired success. They heard their daughter express the most violent passion, which they found was no way encouraged by their slave. As they could not but entertain a just opinion of his honesty and prudence, they resolved to take no notice of what passed; but in order to cure their daughter of her passion, it was concluded to give our young baron the liberty his late behaviour deserved. The mistress soon acquainted him with this good fortune, and he now indulged the pleasing hopes of returning to Europe, and being restored to his honour and fortune. He looked on himself as already free, when his master gave him notice he was to go with him next day to Dover; but his master, having secretly less favourable intentions, as he was very covetous, began to reflect, that five years the young baron had to serve was too much to lose; and though to his wife he pretended his intention to set him free, he secretly agreed with a planter near Chichester, in Sussex county, where with the usual forms he transferred, or sold, him for the term he had to serve.

Never was astonishment equal to that of the noble slave at finding the baseness and ingratitude of Drummond. He reproached him with his breach of promise; and had not those present interposed, he had probably made him pay dear for his perfidy. His new master imagining by this conduct, that he was of a turbulent disposition, began to repent his bargain: However as he was a generous good-natured man, he treated him mildly; so that his work was easy, and he had the privilege of a good collection of books, which was a great consolation to him. This kind usage had such an effect on his generous temper, that he resolved patiently to wait the recovery of his liberty; but unluckily his master died in three years, and the heir disposing of part of the plantation, he was sold to a new master in Newcastle county, almost within sight of Drummond's plantation. Here he was informed that Maria, his old mistress, having had a child by one of her father's white slaves, he was by the laws of the country obliged to marry her; and they were gone to settle at a distant plantation, which her father had bought for him; and what more nearly concerned him, he was told, that two brothers of Turquose, the Indian maid, (whose despair for him had occasioned her tragical death) had vowed his destruction. As he knew the desperate

and revengful temper of that nation, he was as much on his guard as possible; but all his precaution had been fruitless, if Providence had not interposed in his favour. These Indians watched him so narrowly, that they attacked him one day in a remote part of the woods, and with a knife had certainly dispatched him, had not some persons, in search of a fugitive slave, at that instant came up and seized the assassins. He escaped with a slight wound in his hip, and the Indians being carried before a justice were sentenced to pay the surgeon for his cure, and the master for the loss of time it would take up, and to give security for their good behaviour. He continued two months ill of this wound, and neither the surgeon nor master hastened the recovery, which was against both their interests. During this indisposition a new accident involved him in fresh difficulties.

Going out one Sunday evening for the benefit of the air, he sat him down under a hedge, which parted his master's ground from that of a neighbouring planter; after he had read here a while, he found himself drowsy and fell asleep; and when he awoke he perceived it was dark, and heard near him the voices of two persons, which raised his curiosity. His surprise increased to find by the conversation, that his mistress was forming a plot with Stephano their neighbour's slave, to rob her husband and go off with him to Europe, in a ship he had prepared for that purpose. The noble youth was struck with horror at the discovery; for the perfidious woman in outward appearance seemed to live very happily with her husband, who was fond of her to excess. He resolved to prevent the villany, at first by revealing the whole to his master; but reflecting, that a woman capable of such treachery, might have art enough to make a good natured husband believe her innocent, he resolved to try another method. He waited till the guilty pair separated, and following his mistress, hastily overtook her, and told her he was informed of all that passed. He remonstrated to her the baseness of her designed flight, and ended with conjuring her to reflect, and change her purpose; in which case he assured her, what had passed should remain with him for ever.

The mistress finding herself discovered, pretended a sincere repentance for her fault, which she promised him she would never repeat; adding such marks of kindness to him, as gave him too much cause to imagine her unlawful passion had changed its object.

As the young baron could not prevail with himself to gratify the passion of his mistress, she at last considered him as a dangerous person, and endeavoured to get rid of him by poison; which, though his servitude was almost expired, determined him to make his escape. He luckily

met with a ship that brought him to Jamaica, and in September, 1740, he entered on board one of the ships of war as a common sailor; but a discovery being soon made of his birth, and several circumstances of his story remembered by some in the fleet, he was introduced to the captain, who showed him particular regard, and the admiral, commiserating his misfortunes, not only accepted of a petition for his discharge, but soon sent him to England to prosecute his claim. When he arrived, he applied himself to a gentleman who had been an agent for the family, and it was not long before he had an opportunity of giving a strong proof of the justice of his cause.

The woman who had nursed this unfortunate young nobleman three years, hearing of his arrival, and being desirous to see him, was introduced to another gentleman, when she said, "You are not my boy, you are a cheat." Afterwards she was brought into a room, in which were five or six gentleman at a table, and one at a window looking out of it, and after viewing the former, said, "My boy is not here, except he be at the window," then seeing his face, she immediately cried out in great rapture, "This is he," and kissed him. But being asked to give a particular circumstance which might convince others that she was not deceived, she answered, that he had a scar on his thigh; for having in his father's house seen two gentlemen learning to fence, the foils being carried away, he and his young play-fellow got two swords, and went to fencing, by which he received a deep wound in the thigh. Upon examination, the scar was very visible.

Having thus paved the way for the trial, we shall proceed to narrate the most remarkable incidents of that investigation.

The trial itself commenced, as we have said, on the 11th Nov. 1743, and took place in the Irish Court of Exchequer, before Lord Chief Baron Bowes, and the Puisné Barons Mounteney, and Dawson. No judicial investigation could have been more fairly carried through. The statement of the case was made by Serjeant Marshall, and as the facts and the evidence adduced are there detailed, we give the learned Serjeant's address.

Serj. *Marshall.* "I am in this case of counsel with the lessor of the plaintiff, whose title stands thus: The lands in question were the estate of Arthur, late Lord Altham, of which he died, seized, and the lessor of the plaintiff is his only son and heir. My lord, if this were a common case, I should have rested here; but as the course of descent has been interrupted on a supposition that Lord Altham died without issue; and as this is a matter of great expectation, very extraordinary in its nature

and circumstances, and may be much more so in its consequences; so it will be incumbent on me particularly to point out to your lordship, and to the jury, the time and place when and where the lessor of the plaintiff was born; for on that important birth this cause must depend.

My lord, in the year 1706, Arthur late Lord Altham was married to Mary Sheffield, natural daughter of John Duke of Buckingham. After the marriage, Lord Altham's affairs required his attendance in this kingdom, and in the year 1709 he came over; but his lady remained in England till the year 1713, when she came into Ireland; and in the year 1714, Lady Altham resided in the city of Dublin with Lord Altham her husband, and proved with child. When she had been some months advanced in her pregnancy, and at the latter end of the year 1714, Lady Altham went to his lordship's house at Dunmaine, in the county of Wexford, where it was publicly known in the neighbourhood that Lady Altham was with child, and the then Dowager Lady Altham (who was married to Mr. Ogle, one of the commissioners of the revenue in this kingdom) made Lady Altham a present of a very rich quilt against her lying-in: and it will appear to your lordship, and to the jury, that Lady Altham's pregnancy was so well known in the country, that interest was made by several women to nurse this child when it should be born; and that great care was taken in examining the milk of the several women who did apply to be nurses, and that one Joan Landy was approved of to be the nurse. My lord, in the beginning of the year 1715, Lady Altham fell in labour, and was delivered of the lessor of the plaintiff by Mrs. Shiel, a midwife of skill and reputation, who then lived at Ross, about three miles from Dunmaine; and it will appear to your lordship and to the jury, that Lord Altham expressed great satisfaction and joy upon the birth of this son; that a bonfire was made upon this happy event, and drink publicly given to the neighbours and people who came in to testify their joy upon such an occasion. It will likewise appear to your lordship, and to the jury, that great preparations were made for the christening of this son; and that about a month after the birth, the lessor of the plaintiff was christened at the late Lord Altham's house at Dunmaine, in the parish of Tynterne, by one Mr. Lloyd, who was his lordship's chaplain, and at that time curate of Ross, by the Christian name of James, after his grandfather the third Earl of Anglesey, from whom Lord Altham had received great favours, and the sponsors on that occasion were Mr. Colclough, Mr. Cliff, and Mrs. Pigot. I mentioned to your lordship before, that Joan Landy was appointed the nurse; her

father's house was about a quarter of a mile from Dunmaine, where the child continued for about a month; and then the nurse's father's house being first made fit for the reception of such a child, he was carried to that place with his nurse: and it will appear to your lordship, and to the jury, that for the conveniency of Lady Altham, and that she might visit this child as often as she pleased, a coach-road was made from the house of Dunmaine to the nurse's father's house. When the child was about sixteen months old he was weaned, and brought back to Lord Altham's house at Dunmaine, where one Joan Laffan was appointed his dry nurse; and it will appear to your lordship, and to the jury, that while Lord and Lady Altham were united, the greatest fondness was shewn to this infant by both. My lord, in February 1716, there were some very unhappy differences between the late Lord Altham and his lady, upon which they, by agreement, separated; but Lady Altham, as was extremely natural, desired to have the company of her child, which Lord Altham, but with great expressions of regard and tenderness for the child, refused; and it will appear to your lordship and to the jury that Lady Altham left her son with the utmost concern and regret. After this unhappy separation, Lord Altham forbade Lady Altham's access to this child, and directed that she should by no means see him, and that the child should not be carried to visit her. The lessor of the plaintiff, thus deprived of his mother, continued at Dunmaine in the care of servants, until the year 1718, and in that year Lord Altham removed his family to Kenna, in the county of Kildare, where he continued about two years; and it will appear to your lordship and to the jury, that the lessor of the plaintiff was educated there with the greatest affection, and was constantly reputed and deemed to be Lord Altham's son and heir. My lord, in the latter end of the year 1719, or beginning of the year 1720, Lord Altham removed to Dublin, and had a house in this town for some time, to which the lessor of the plaintiff was also brought; and it will appear to your lordship and to the jury, that he was then clothed in a very extraordinary manner, and was treated and esteemed as the son and heir of the Lord Altham. My lord, some time in the year 1720, Lord Altham removed to a place called Carrickduffe, in the county of Carlow; and it will appear to your lordship, and to the jury, that as the lessor of the plaintiff was then of years capable of instruction, so Lord Altham provided a tutor for him in the house; and when afterwards Lord Altham sent the lessor of the plaintiff to a public school at Bunclody in the county of Carlow, that he was there attended as the son of

a nobleman, and treated as such. My lord, in the year 1722, (it was a year extremely fatal to my client) Lord Altham began a criminal correspondence with one Miss Gregory, and in the winter of that year, Lord Altham settled in Dublin with her, in a house in cross-lane; and it will appear to your lordship, and to the jury, that this Miss Gregory, before she had made her interest in Lord Altham quite secure, behaved tolerably well to the lessor of the plaintiff; and the lessor of the plaintiff was brought to the house where Lord Altham resided with her, and was sent to a public school in this city, and was used with great care and tenderness by his father, and at school was deemed and taken to be the son of Lord Altham. It will be necessary to mention to your lordship and the jury what became of Lady Altham after this separation. She resided in the town of Ross for about three years, and her affection for the lessor of the plaintiff was so strong, that notwithstanding Lord Altham's prohibition, she found means privately to see the child, and always expressed the greatest regard and fondness for him, and complained much more severely of being deprived of the comfort in her child, than the loss of her husband. In the year 1720, or thereabouts, Lady Altham came to reside in Dublin; but, unhappily for this lady, she had in her lying-in contracted disorders, which at last ended in a dead palsy, and not only took from her the use of her limbs, but also, in some measure, deprived her of her memory and her senses; but, notwithstanding, it will appear to your lordship and to the jury, that during the time she continued in this kingdom, she kept a secret correspondence with this family, relative only to this child. In the year 1723, Lady Altham was carried from this kingdom to London in a very languishing condition, and there, during the remainder of her life, lived upon the bounty of some persons who had charity enough to support her. My lord, from this languishing condition of Lady Altham, Miss Gregory, who had gained a prodigious influence over Lord Altham, (who will appear to your lordship to have been a very weak man), had hopes from him of every thing in his power, expected to be Lady Altham, and had assumed the title even in the life-time of Lady Altham; and therefore considered the lessor of the plaintiff as the greatest bar to her hopes, in case she should have issue by this lord, and thereupon grew very harsh and severe to the lessor of the plaintiff; she raised doubts in the Lord Altham, that, though this was the son of the Lady Altham, it might not be the son of his lordship, that so she might take off that paternal affection from the lessor of the plaintiff, which he had always shewn to him before; and, my lord, she gained such an influence at last

upon this unhappy lord, that she prevailed on him to remove the lessor of the plaintiff out of his house; and in the year 1724, the lessor of the plaintiff was sent by Lord Altham to one Cooper's in Ship-street, in this town. But the heart of Lord Altham was not at this time quite estranged from his son, for he gave directions there that the lessor of the plaintiff should be taken great care of, that he should be put to school; and it will appear to your lordship and to the jury, that he was put to school at one Dunn's, in Warburgh-street, in this town, and that Lord Altham came privately some times to see him there. My lord, it will appear to your lordship, and to the jury, that about this time the necessities of the late Lord Altham were so extremely great, that he looked out to raise money by all manner of ways and means; and Lord Altham being advised, that if the lessor of the plaintiff were out of the way, large sums might be raised by the sale of reversions, in conjunction with the remainder-man in tail; and this scheme being agreeable to the inclination of Miss Gregory, who was willing to get rid of the lessor of the plaintiff at any rate, it was determined that this great obstacle to Lord Altham's desire of raising money should be removed; and to that end the lessor of the plaintiff was sent to the house of one Cavenagh, with directions to be kept quite private, so as it should not be known where he was. What farther was designed against him I cannot say; but it will appear to your lordship and to the jury that though the lessor of the plaintiff was at this time a very young lad, yet he was a little too sprightly to be confined in that manner; he found means to make his escape from thence, and being denied admittance into his father's house, he roved about from place to place (as will be more particularly given an account of to your lordship and to the jury, by the witnesses) for the space of two years before the death of the late Lord Altham, his father, which happened on the 16th of November, 1727. But during all that time, he was taken care of by several persons of extreme good credit, and considered as the Lord Altham's son and heir. Upon the death of the late Lord Altham, in the year 1727, the lessor of the plaintiff was extremely young; he was by the mother's side destitute of all friends whatsoever in this kingdom; and the now defendant, the Earl of Anglesey (I must take the liberty now of mentioning him), he, my lord, upon the death of Lord Altham, claimed the title of Lord Altham, as brother and heir to the deceased lord, upon a supposition that the late lord died without issue male. My lord, it will appear to your lordship, and to the jury, that many people who had known the lessor of the plaintiff for several years

before his father's death, appeared to be greatly surprised that the defendant assumed the title of Lord Altham, in regard that they believed the lessor of the plaintiff to be the son and heir of the Lord Altham; and there were murmurings among the servants, and a great many people who were acquainted with the lessor of the plaintiff, on that account. It will appear to your lordship, and to the jury, that, in order to remove every obstacle out of the way of the defendant, and to take from the lessor of the plaintiff all possibility of asserting his right, and claiming the title, an attempt was made very early after the death of the late Lord Altham; an attempt was made, I say, to kidnap the lessor of the plaintiff; and it will appear that the first attempt was in vain; a second attempt of this kind was made, and likewise defeated; but the third attempt was more successful; and in about four months after the death of the late Lord Altham, the lessor of the plaintiff was sent into America, and there sold for a common slave. I, my lord, have not taken upon me to mention by whom those several attempts were made, it will much more properly come out of the mouths of the witnesses; and when they shall speak it here upon the table, every body will judge with what view and design such a wicked attempt could be made. My lord, the lessor of the plaintiff, while he was in slavery, suffered many and various hardships, as every body in those unhappy circumstances does, and did make an attempt to regain his liberty; but being retaken, he suffered according to the law of that country, and continued about thirteen years in slavery. But it will appear to your lordship, and to the jury, that even in that miserable condition, when he had an opportunity of relating his misfortunes to any body that had compassion of them, he did mention the unhappiness of his case, and by what means he was reduced to such circumstances. It will appear to your lordship, and to the jury, in what manner the plaintiff was brought by the care and bounty of Admiral Vernon, into the kingdom of Great Britain. There an unhappy misfortune detained him for some time; he happened, by an accidental shot, to kill a man near London, for which he was indicted, stood his trial, and was honourably acquitted. How that prosecution was carried on, or for what purpose, I shall not take upon me to say, though it will have its weight in the case; but it was necessary to mention this circumstance, to shew that, when we were at liberty of coming into this kingdom, and prosecuting our right, we did it as recently as was in our power. When these facts are laid before your lordship and the jury, we of counsel for the lessor of the plaintiff, do apprehend there is such a connection in every

one of them, that the force of truth will prevail, and that your lordship will direct the jury to find a verdict for the lessor of the plaintiff."

The evidence adduced fully supported the speech of counsel, and an extract or two from it, characteristic of the period when the events occurred, and of the conduct of the parties implicated, will perhaps be deemed sufficient.

One witness a Major Fitzgerald thus relates the fact of the birth, and his account strongly recalls a similar scene described by Sir Walter Scott, in the opening of Guy Mannering.

Major *Richard Fitzgerald* sworn. Says, he knew Lord Altham, and was acquainted with his lordship in 1714, at a place called Prospect-Hall in the county of Waterford, and at Dunmaine, and knew Lady Altham; that deponent was at Dunmaine some time in 1715. Being asked if he was sure it was in the year 1715? says, he is certain; but says, he could not then see Lady Altham, because she was lying-in at that time, and that she sent word down to the deponent, that if she could see any body, she would see him. Being asked the occasion of his coming to Dunmaine, says, he met Lord Altham at Ross, who invited deponent to dine with him the next day; that deponent desired to be excused, because he was to dine with some officers; but Lord Altham said, deponent must dine with him, and come to drink some groaning-drink, for that his wife was in labour: deponent told him that was a reason he ought not to go; but Lord Altham would not take an excuse, and sent the deponent word the next day to Ross, that his wife was brought to bed of a son; and the deponent went to Dunmaine and dined there, and had some discourse about the child, and Lord Altham swore that the deponent should see his son; and accordingly the nurse brought the child to deponent, and deponent kissed the child, and gave half a guinea to the nurse: and some of the company toasted the heir-apparent to Lord Anglesey at dinner. That this was the day after the child was born; and deponent says, he left the country the next day, and went to the county of Waterford, to his own house at Prospect-Hall. Says, deponent saw the woman to whom he gave the half-guinea, this day of his examination; that he remembers her well, because he took notice of her when he gave her the half-guinea, that she was very handsome; that he did not stay at Dunmaine that night, but came to Ross at night-fall, and was attacked in the road by robbers: that he crossed the ferry on his return home—remembers that the Lord Altham was in high spirits with the thoughts of having a son and heir.

Joan Laffan's (the maid servant) evidence is singular.

Joan Laffan sworn. Says, that she knew Lord and Lady Altham. That deponent lived at Colonel Dean's in the year King George came to the crown; afterwards deponent left that service, and went for some time to live with her friends, and in the year following went into Lord Altham's service. Says, it was not a whole year between the time of her living with Colonel Dean and coming to Lady Altham's service. Does not remember the month she came to Lady Altham's, but says, it was in the year 1715: and that she was there in a station of a chamber maid, and was employed to attend Lord and Lady Altham's child (who was called master James Annesley) when it came from the wet-nurse; and that he was kept like a nobleman's child. That the child was about three or four months old when deponent came to the service, and was about a year and a half in deponent's care; that my lord and lady were very fond of the child, and my lady used to send for him up in the morning and take him into the bed, and generally called him my dear. That afterwards the child was taken from deponent and sent to a place called Kinna, in the county of Kildare. That deponent did not go with the child, but remained at Dunmaine; that the butler (whose name was Charles Field) was sent with the child. Says, that her lord and lady separated in a very angry manner on account of Tom Palliser, (when the child was about three years old;) and deponent was present when Tom Palliser's ear was cut off. Says, that after the separation Lady Altham went from Dunmaine to Ross, and lodged there at one Captain Butler's. Says, that she was present when my lord and lady parted; that she saw my lady at the door, with the child in her arms; that my lord came out of the house in a great rage, and asked where his child was; and upon being told that he was with his mother, he ran up to her and snatched the child out of her arms; that my lady begged very hard she might take the child along with her; but that my lord swore he would not part with his child upon any consideration; that my lady finding she could not prevail, burst out a crying, and begged she might at least give the child a parting kiss; that my lord, with some difficulty, consented, and then my lady drove away to Ross: that as soon as my lady was gone, my lord gave the child to deponent with a strict charge to deponent and to Mr. Taylor not to let my lady have any access to him: but says, that notwithstanding these orders, some of the servants found means to carry the child privately to Ross to see my lady, which when my lord was told of he flew into a very great passion. Says that the

child was carried to Ross, without deponent's privity, for that sometimes deponent used to go to Waterford to see a brother of her's who lived there, and some other friends; and in her absence some of my lord's servants, for the lucre (as she believes) of getting a piece of money from my Lady Altham, took those opportunities to carry the child to New Ross. Says, that the Christmas eve, after the separation, the present Earl of Anglesey, who was then Captain Annesley, was at Dunmaine House, and not seeing the child, said to deponent, Where is Jemmy, or where is my brother's child? How did his mother behave at parting with him? To which deponent answered, that my lady had begged of my lord very hard to have the child with her; whereupon the present earl made use of an extraordinary oath, and said, That he wished his brother had kept none of the breed; and that when he turned away the mother, he should have packed off the child, and sent them both to the d——l. Says, that she is of a good family, and would not have waited on the child, if she had believed him to be a bastard.

In cross examination she says, that the occasion of my lord's cutting off Mr. Palliser's ear, was, that some of the family had made my lord jealous of him, and contrived that morning to get him into my lady's chamber when she was in bed and asleep, and then they brought my lord, who being by this stratagem confirmed in his suspicions, ordered Tom Palliser to be dragged out of my lady's bed chamber by the servants, and with a sword was going to run him through the body; but the servants interposed, and begged my lord not to take away his life, and only to cut off his nose or one of his ears; and accordingly the huntsman was ordered to cut off his ear, which he did in the room next the yellow-room. Says, the servants kicked him down stairs, and turned him out of the gate, and that this happened on a Sunday morning; that my lady left the house of Dunmaine the same day, and went to Ross.

The strong case of the plaintiff was met on the part of the defendant by an attempt to prove that James Annesley, though the son of Lord Altham was not the son of his wife Lady Altham, but illegitimate. This endeavour signally failed, and after an able summing up from the judges the jury on the fifteenth day returned a verdict for the plaintiff.

James Annesley thus recovered the estates he sought for, but it is rather singular that he never assumed the titles himself, or afterwards disturbed his uncle in the possession of them. Some other trials took place relative to this affair, one for perjury against Mary Heath for her evidence

in favour of Lord Anglesey, and another for an assault by the Earl on James Annesley, but these judicial enquiries led to no important result.

In a note to the State Trials, we find the subsequent fate of James Annesley thus recorded:

James Annesley, Esq. died January 5th, 1760. He was twice married; first, to a daughter of Mr. Chester, at Staines-Bridge in Middlesex; by whom he had one son and two daughters. The son, James Annesley, Esq. died November, 1763, without issue, and the eldest daughter was married to Charles Wheeler, Esq. son of the late Captain Wheeler in the Guinea trade. Annesley himself was married, secondly, to a daughter of Sir Thomas I'Anson of Bounds, near Tunbridge, in Kent, gentleman-porter of the Tower, by whom he had a daughter and a son, who are both dead; the son, aged about seven years, died about the beginning of 1764; and the daughter, aged about twelve, died in May 1765.

THE CRIMES AND VICISSITUDES OF WILLIAM PARSONS, THE SON OF A BARONET.

THE singular story of this miserable man's life of guilt is to be found included in almost every English collection of criminal trials. For its authenticity, it is not here intended to vouch further than that this William Parsons was tried, convicted, and eventually executed, and that as he was the member and heir of a highly honourable family, it is more than probable the tale would, were it false, have been long before now contradicted. The account presents certainly one of the most extraordinary instances of perverseness in crime ever recorded: its very strangeness makes it interesting, and affords the best excuse for its insertion. A word or two, however, first about the family of Parsons, to which the subject of this melancholy history belonged.

The Parsons were of Northamptonshire origin, and became afterwards seated at Boveny, in the county of Bucks. Sir John Parsons, Knt., of Boveny, married Elizabeth, daughter and sole heiress of Sir John Kidderminster, of Langley in Buckinghamshire, and had a son, William Parsons, Esq., of Langley, who was created a baronet, the 9th of April, 1661. Sir William Parsons, the grandson of this first baronet, himself the third baronet, married for his first wife Frances, daughter of Henry Dutton, Esq., by whom he had issue, beside a son, John, who died young, and a daughter, Grace, to whom her maternal aunt, the Duchess of Northumberland, left a considerable fortune, another son, WILLIAM, the subject of this narrative, who married Mary, daughter of John Frampton, Esq., of the Exchequer, and had an only surviving son, Mark. Sir William Parsons married, secondly, Isabella, fifth daughter and coheir of James Holt, Esq., of Castleton in Lancashire, and relict of Delaval Dutton, Esq., but had no other issue. Sir William died about 1760, and was succeeded

by his grandson Sir Mark Parsons, who died unmarried in 1812, when the baronetcy became extinct.

The history of William Parsons is as follows.

William Parsons, the son of Sir William Parsons, Bart., was born in London, in the year 1717. He was placed under the care of a pious and learned divine at Pepper-harrow, in Surrey, where he received the first rudiments of education. In a little more than three years, he was removed to Eton College, where it was intended that he should qualify himself for one of the universities.

While he was a scholar at Eton, he was detected in stealing a volume of Pope's Homer in the shop of a bookseller named Pote. Being charged with the fact, he confessed that he had stolen many other books at different times. The case being represented to the master, Parsons underwent a very severe discipline.

Though he remained at Eton nine years, his progress in learning was very inconsiderable. The youth was of so unpromising a disposition, that Sir William determined to send him to sea, as the most probable means to prevent his destruction, and soon procured him the appointment of midshipman on board a man-of-war, then lying at Spithead under sailing orders for Jamaica, there to be stationed for three years.

Some accident detaining the ship beyond the time when it was expected she would sail, Parsons applied for leave of absence, and went on shore; but having no intention to return, he immediately directed his course towards a small town about ten miles from Portsmouth, called Bishop's Waltham, where he soon ingratiated himself into the favour of the principal inhabitants.

His figure being pleasing, and his manner of address easy and polite, he found but little difficulty in recommending himself to the ladies.

He became greatly enamoured of a beautiful and accomplished young lady, the daughter of a physician of considerable practice, and prevailed upon her to promise she would yield her hand in marriage.

News of the intended marriage coming to the knowledge of his father, Sir William, and his uncle, the latter hastened to Waltham to prevent a union which he apprehended would inevitably produce the ruin of the contracting parties.

With much difficulty the uncle prevailed upon Parsons to return to the ship, which in a few days afterwards proceeded on her voyage.

The ship had not been long arrived at the place of destination, when Parsons resolved to desert, and return to England, and soon found an

opportunity of shipping himself on board the Sheerness man-of-war, then preparing to sail on her return home.

Immediately after his arrival in England, he set out for Waltham, in order to visit the object of his affection; but his uncle being apprised of his motions, repaired to the same place, and represented his character in so unfavourable, but at the same time in so just a manner, that it prevented the renewal of his addresses to the physician's daughter.

He went home with his uncle, who observed his conduct with a most scrupulous attention, and confined him, as much as possible, within doors. This generous relation at length exerted his interest to get the youth appointed midshipman on board his Majesty's ship the Romney, which was under orders for the Newfoundland station.

Upon his return from Newfoundland, Parsons learnt, with infinite mortification, that the Duchess of Northumberland, to whom he was related, had revoked a will made in his favour, and bequeathed to his sister a very considerable legacy, which he had expected to enjoy. He was repulsed by his friends and acquaintance, who would not in the least countenance his visits at their houses; and his circumstances now became exceedingly distressed.

Thus situated, he applied to a gentleman named Bailey, with whom he had formerly lived on terms of intimacy; and his humanity induced him to invite Parsons to reside in his house, and to furnish him with the means of supporting the character of a gentleman. Mr. Bailey also was indefatigable in his endeavours to effect a reconciliation between young Parsons and his father, in which he at length succeeded.

Sir William having prevailed upon his son to go abroad again, and procured him an appointment under the governor of James Fort, on the river Gambia, he embarked on board a vessel in the service of the Royal African Company.

Parsons had resided at James Fort about six months, when a disagreement took place between him and Governor Aufleur; in consequence of which the former signified a resolution of returning to England. Hereupon the governor informed him that he was commissioned to engage him as an indented servant for five years. Parsons warmly expostulated with the governor, declaring that his behaviour was neither that of a man of probity or a gentleman, and requested permission to return. But so far from complying, the governor issued orders to the sentinels to be particularly careful least he should effect an escape.

Notwithstanding every precaution, Parsons found means to get on

board a homeward-bound vessel, and being followed by Mr. Aufleur, he was commanded to return, but cocking a pistol, and presenting it to the governor, he declared he would fire upon any man who should presume to molest him. Hereupon the governor departed, and in a short time the ship sailed for England.

Soon after his arrival in his native country, he received an invitation to visit an uncle who lived at Epsom, which he gladly accepted, and experienced a most cordial and friendly reception.

He resided with his uncle about three months, and was treated with all imaginable kindness and respect. At length, the discovery of an act of misconduct on his part so incensed the old gentleman, that he dismissed Parsons from his house.

Reduced to the most deplorable state of poverty, he directed his course towards the metropolis; and three halfpence being his whole stock of money, he subsisted four days upon the bread purchased with that small sum, quenching his thirst at the pumps he casually met with in the streets. He lay four nights in a hay-loft in Chancery-lane, belonging to the Master of the Rolls, by permission of the coachman, who pitied his truly deplorable case.

At length he determined to apply for redress to an ancient gentlewoman, with whom he had been acquainted in his more youthful days, when she was in the capacity of companion to the Duchess of Northumberland. Weak and emaciated through want of food, his appearance was rendered still more miserable by the uncleanliness and disorder of his apparel; and when he appeared before the old lady, she tenderly compassionated his unfortunate situation, and recommended him to a decent family in Cambridge-street, with whom he resided some time in a very comfortable manner, the old gentlewoman defraying the charge of his lodging and board; and a humane gentleman, to whom she had communicated his case, supplying him with money for common expenses.

Sir William came to town at the beginning of the winter, and received an unexpected visit from his son, who dropped upon his knees, and supplicated forgiveness with the utmost humility and respect. His mother-in-law was greatly enraged at his appearance, and upbraided her husband with being foolishly indulgent to so graceless a youth, at the same time declaring that she would not live in the house where he was permitted to enter.

Sir William asked him what mode of life he meant to adopt? and his

answer was, that he was unable to determine; but would cheerfully pursue such measures as so indulgent a parent should think proper to recommend. The old gentleman then advised him to enter as a private man in the horse-guards, which he approved of, saying, he would immediately offer himself as a volunteer.

Upon mentioning his intention to the adjutant, he was informed that he must pay seventy guineas for his admission into the corps. This news proved exceedingly afflicting, as he had but little hope that his father would advance the necessary sum. Upon returning to his father's lodgings, he learnt that he had set out for the country, and left him a present of only five shillings.

Driven now nearly to a state of distraction, he formed the desperate resolution of putting an end to his life, and repaired to St. James's Park, intending to throw himself into Rosamond's Pond. While he stood on the brink of the water, waiting for an opportunity of carrying his impious design into effect, it occurred to him, that a letter he had received, mentioning the death of an aunt, and that she had bequeathed a legacy to his brother, might be made use of to his own advantage; and he immediately declined the thoughts of destroying himself.

He produced the letter to several persons, assuring them that the writer had been misinformed respecting the legacy, which in reality was left to himself; and under the pretext of being entitled to it, he obtained money and effects from different people to a considerable amount. Among those who were deceived by this stratagem was a tailor in Devereux-court in the Strand, who gave him credit for several suits of clothes.

The money and other articles thus fraudulently obtained, enabled him to engage in scenes of gaiety and dissipation; and he seemed to entertain no idea that his happiness would be but of short duration.

Accidentally meeting the brother of the young lady to whom he had made professions of love at Waltham, he intended to renew his acquaintance with him, and his addresses to his sister; but the young gentleman informed Parsons that his sister died suddenly a short time after his departure from Waltham.

Parsons endeavoured, as much as possible, to cultivate the friendship of the young gentleman, and represented his case in so plausible a manner, as to obtain money from him, at different times, to a considerable amount.

Parsons' creditors now became exceedingly importunate, and he thought

there was no probability of relieving himself from his difficulties, but by connecting himself in marriage with a woman of fortune.

Being eminently qualified in those accomplishments which are known to have a great influence over the female world, Parsons soon ingratiated himself into the esteem of a young lady possessed of a handsome independency bequeathed her by her lately deceased father. He informed his creditors that he had a prospect of an advantageous marriage; and as they were satisfied that the lady had a good fortune, they supplied him with every thing necessary for prosecuting the amour, being persuaded that, if the expected union took place, they should have no difficulty in recovering their respective demands.

The marriage was solemnized on the 10th of February, 1740, in the twenty-third year of his age. On this event, the uncle, who lived at Epsom, visited him in London, and gave him the strongest assurances that he would exert every possible endeavour to promote his interest and happiness, on condition that he would avoid such proceedings as would render him unworthy of friendship and protection. His relations in general were perfectly satisfied with the connexion he had made, and hoped that his irregular and volatile disposition would be corrected by the prudent conduct of his bride, who was justly esteemed a young lady of great sweetness of temper, virtue, and discretion.

A few weeks after his marriage, his uncle interceded in his behalf with the Right Honourable Arthur Onslow; and through the interest of that gentleman he was appointed an ensign in the thirty-fourth regiment of foot.

He now discharged all his debts, which proved highly satisfactory to his relations; and this conduct was the means of his obtaining further credit in times of future distress.

He hired a very handsome house in Poland-street, where he resided two years, in which time he had two children, one of whom died very young. From Poland-street, he removed to Panton-square, and the utmost harmony subsisted between him and his wife, who were much respected by their relations and acquaintances.

But it must be observed, that though his conduct in other respects had been irreproachable from the time of his marriage, he was guilty of unpardonable indiscretion as to his manner of living; for he kept three saddle-horses, a chaise and pair, several unnecessary servants, and

engaged in many other superfluous expenses that his income could not afford.

Unfortunately Parsons became acquainted with an infamous gambler, who seduced him to frequent gaming-houses, and to engage in play. He lost considerable sums, which were shared between the pretended friend of Parsons, and his wicked accomplices.

Parsons was now promoted to a lieutenancy in Colonel Cholmondely's regiment, which was ordered into Flanders, and was accompanied to that country by the abandoned gamester, whom he considered as his most valuable friend. The money he lost in gaming, and the extravagant manner in which he lived, in a short time involved him in such difficulties that he was under the necessity of selling his commission, in order to discharge his debts contracted in Flanders. The commission being sold, Parsons and his treacherous companion returned to England.

His arrival was no sooner known than his creditors were extremely urgent for the immediate discharge of their respective claims, which induced him to take a private lodging in Gough-square, where he passed under the denomination of Captain Brown. He pretended to be an unmarried man; and saw his wife only when appointments were made to meet at a public-house.

His creditors having discovered the place of his retreat, he deemed it prudent to remove; and at this juncture an opportunity offered by which he hoped to retrieve his fortune; and he therefore embarked as captain of marines on board the Dursley privateer.

Soon after the arrival of the ship at Deal, Parsons went on shore, provided with pistols, being determined not to submit to an arrest, which he supposed would be attempted. He had no sooner landed on the beach, than he was approached by five or six men, one of whom attempted to seize him; but Parsons, stepping aside, discharged one of the pistols, and lodged a ball in the man's thigh. He then said, he was well provided with weapons, and would fire upon them if they presumed to give him further molestation. Hereupon the officers retreated; and Parsons returned to the ship, which sailed from Deal the following morning.

They had been in the Channel about a week, when they made prize of a French privateer, which they carried into the port of Cork. Parsons being n ⁻ afflicted with a sickness that prevailed among the French prisoners, was sent on shore for the recovery of his health. During his illness, the vessel sailed on another cruize, and he was no sooner in a

condition to permit him to leave his apartment, than he became anxious to partake of the fashionable amusements.

In order to recruit his finances, which were nearly exhausted, he drew bills of exchange on three merchants in London, on which he raised 60*l.*; and before advice could be transmitted to Cork, that he had no effects in the hands of the persons on whom he had drawn the bills, he embarked on board a vessel bound for England.

He landed at Plymouth, where he resided some time under a military character, to support his claim to which he was provided with a counterfeit commission. He frequented all places of public resort, and particularly where gaming was permitted. His money being nearly expended, he obtained a hundred pounds from a merchant of Plymouth, by means of a false draft upon an alderman of London. Some time after the discovery of the fraud, the injured party saw Parsons a transport prisoner on board a ship bound to Virginia, lying in Catwater Bay, where he assured him of an entire forgiveness, and made him a present of a guinea.

From Plymouth, Parsons repaired to London, and his money being nearly spent, he committed the following fraud, in conjunction with a woman of the town: taking his accomplice to a tavern in the Strand (where he was known), he represented her as an heiress, who had consented to a private marriage, and requested the landlord to send immediately for a clergyman. The parson being arrived, and about to begin the ceremony, Parsons pretended to recollect that he had forgotten to provide a ring, and ordered the waiter to tell some shopkeeper in the neighbourhood to bring some plain gold rings. Upon this the clergyman begged to recommend a very worthy man, who kept a jeweller's shop in the neighbourhood; and Parsons said it was a matter of indifference with whom he laid out his money; adding, that as he wished to compliment his bride with some small present, the tradesman might also bring some diamond rings.

The rings being brought, and one of each chosen, Parsons produced a counterfeit draft, saying, the jeweller might either give him change then, or call for payment after the ceremony; on which the jeweller retired, saying, he would attend again in the afternoon. In a little time, the woman formed a pretence for leaving the room, and upon her not returning soon, our hero affected great impatience, and, without taking his hat, quitted the apartment, saying, he would enquire of the people of

the house whether his bride had not been detained by some unforeseen accident.

After waiting a considerable time, the clergyman called the landlord; and as neither Parsons nor the woman could be found, it was rightly concluded, that their whole intention was to perpetrate a fraud. In the mean time, our hero and his accomplice met at an appointed place, and divided their booty.

Soon after this transaction, Parsons intimated to a military officer, that, on account of the many embarrassments he was under, he was determined to join the rebel army, as the only expedient by which he could avoid being lodged in prison. The gentleman represented the danger of engaging in such an adventure, and lest his distress should precipitate him to any rash proceeding, generously supplied him with forty guineas, to answer present exigencies.

He soon after borrowed the gentleman's horse, pretending that he had occasion to go a few miles into the country, on a matter of business; but he immediately rode to Smithfield, where he sold the horse at a very inadequate price.

That he might escape the resentment of the gentleman whom he had treated in so unworthy a manner, he lodged an information against him, as being disaffected to the government: in consequence of which he was deprived of his commission, and suffered an imprisonment of six months. He exhibited informations of a similar nature against two other gentlemen, who had been most liberal benefactors to him, in revenge for refusing any longer to supply him with the means of indulging his extravagant and profligate disposition.

In the year 1745, he counterfeited a draft upon one of the collectors of the excise, in the name of the Duke of Cumberland, for five hundred pounds. He carried the draft to the collector, who paid him fifty pounds in part, being all the cash that remained in his hands.

He went to a tailor, saying, he meant to employ him, on the recommendation of a gentleman of the army, whom he had long supplied with clothes; adding, that a captain's commission was preparing for him at the War-office. The tailor furnished him with several suits of clothes; but not being paid according to agreement, he entertained some suspicion as to the responsibility of his new customer; and therefore enquired at the War-office respecting Captain Brown, and learnt that a commission was making out for a gentleman of that name. Unable to get any part of the money due to him, and determined to be no longer trifled

with, he instituted a suit at common-law, but was nonsuited, having laid his action in the fictitious name of Brown, and it appearing that Parsons was the defendant's real name.

Parsons sent a porter from the Ram Inn, in Smithfield, with a counterfeit draft upon Sir Joseph Hankey and Co., for five hundred pounds. Parsons followed the man, imagining that if he came out of Sir Joseph's house alone, he would have received the money; and that if he was accompanied by any person, it would be a strong proof of the forgery being discovered; and as he observed Sir Joseph and the porter get into a hackney-coach, he resolved not to return to the inn.

He next went to a widow named Bottomley, who lived near St. George's Church, and saying that he had contracted to supply the regiment to which he belonged with hats, gave her an order to the amount of a hundred and sixty pounds. He had no sooner got possession of the hats, than he sold them to a Jew for one-half of the sum he had agreed to pay for them.

Being strongly apprehensive that he could not long avoid being arrested by some of his numerous and highly exasperated creditors, by means of counterfeit letters, he procured himself to be taken into custody, as a person disaffected to the king and government; and was supported without expense, in the house of one of the king's messengers, for the space of eighteen months.

Being released from the messenger's house, he revolved in his mind a variety of schemes for eluding the importunity of his creditors, and at length determined to embark for Holland.

He remained in Holland a few months, and when his money was nearly expended he returned to England. A few days after his arrival in London, he went to a masquerade, where he engaged in play to the hazard of every shilling he possessed, and was so fortunate as to obtain a sufficient sum for his maintenance for several months.

His circumstances being again distressed, he wrote in pressing terms to his brother-in-law, who was an East India director, intreating that he would procure him a commission in the Company's service, either by land or sea. The purport of the answer was, that a gentleman in the Temple was authorized to give the supplicant a guinea, but that it would be fruitless for him to expect any further favours.

Having written a counterfeit draft, he went to Ranelagh on a masquerade night, where he passed it to a gentleman who had won some small sums of him. The party who received the draft offered it for payment

in a day or two afterwards, when it was proved to be a counterfeit; in consequence of which Parsons was apprehended, and committed to Wood-street Compter.

As no prosecutor appeared, Parsons was necessarily acquitted; but a detainer being lodged, charging him with an offence similar to the above, he was removed to Maidstone Gaol, in order for trial at the Lent Assizes at Rochester.

Mr. Carey, the keeper of the prison, treated Parsons with great humanity, allowing him to board in his family, and indulging him in every privilege that he could grant, without a manifest breach of the duties of his office. But such was the ingratitude of Parsons, that he formed a plan, which, had it taken effect, would have utterly ruined the man to whom he was indebted in such great obligations. His intention was, privately to take the keys from Mr. Carey's apartment; and not only to escape himself, but even to give liberty to every prisoner in the gaol: and this scheme he communicated to a man accused of being a smuggler, who reported the matter to Mr. Carey, desiring him to listen at an appointed hour at night, when he would hear a conversation that would prove his intelligence to be authentic. Mr. Carey attended at the appointed time, and being convinced of the ingratitude and perfidy of Parsons, he abridged him of the indulgences he had before enjoyed, and caused him to be closely confined.

Being convicted at the assizes at Rochester, he was sentenced to transportation for seven years; and in the following September he was put on board the Thames, Captain Dobbins, bound for Maryland, in company with upwards of one hundred and seventy other convicts, fifty of whom died in the voyage. In November, 1749, Parsons was landed at Annapolis, in Maryland, and having remained in a state of slavery about seven weeks, a gentleman of considerable property and influence, who was not wholly unacquainted with his family, compassionating his unfortunate situation, obtained his freedom, and received him at his house in a most kind and hospitable manner.

Parsons had not been in the gentleman's family many days before he rode off with a horse which was lent him by his benefactor, and proceeded towards Virginia; on the borders of which country he stopped a gentleman on horseback, and robbed him of five pistoles, a moidore, and ten dollars.

A few days after, he stopped a lady and gentleman in a chaise, attended by a negro servant, and robbed them of eleven guineas and some silver:

after which he directed his course to the Potomack river, where finding a ship nearly ready to sail for England, he embarked, and after a passage of twenty-five days landed at Whitehaven.

He now produced a forged letter, in the name of one of his relations, to a capital merchant of Whitehaven, signifying that he was entitled to the family estate, in consequence of his father's decease, and prevailed upon him to discount a false draft upon a banker in London for seventy-five pounds.

Upon his arrival in the metropolis, he hired a handsome lodging at the west end of the town; but he almost constantly resided in houses of ill fame, where the money he had so unjustifiably obtained was soon dissipated.

Having hired a horse, he rode to Hounslow-heath, where, between ten and eleven o'clock at night, he stopped a post-chaise, in which were two gentlemen, whom he robbed of five guineas, some silver, and a watch.

A short time afterwards he stopped a gentleman near Turnham-green, about twelve o'clock at night, and robbed him of thirty shillings, and a gold ring. The latter, the gentleman requested might be returned, as it was his wife's wedding-ring. Parsons complied with the request, and voluntarily returned five shillings, saying at the same time, that nothing but the most pressing necessity could have urged him to the robbery; after which the gentleman shook hands with the robber, assuring him that, on account of the civility of his behaviour, he would not appear to prosecute, if he should hear of his being apprehended.

He attempted to rob a coach and four near Kensington, but hearing some company on the road, he proceeded towards Hounslow, and on his way thither overtook a farmer, and robbed him of between forty and fifty shillings. He then took the road to Colnbrook, and robbed a man servant of two guineas and a half, and a silver watch. After this he rode to Windsor, and returned to London by a different road.

His next expedition was on the Hounslow-road; and at the entrance of the heath he stopped two gentlemen, and robbed them of seven guineas, some silver and a curiously wrought silver snuff-box.

Returning to his lodgings near Hyde-park-corner one evening, he overtook a footman in Piccadilly, and joining company with him, a familiar conversation took place, in the course of which Parsons learnt that the other was to set out early on the following Sunday with a portmanteau, containing cash and notes to a considerable value, the property of his master, who was then at Windsor.

On the Sunday morning he rode towards Windsor, intending to rob the footman. Soon after he had passed Turnham-green, he overtook two gentlemen, one of whom was Mr. Fuller, who had prosecuted him at Rochester, and who perfectly recollecting his person, warned him not to approach. He however paid no attention to what Mr. Fuller said, but still continued sometimes behind and sometimes before them, though at a very inconsiderable distance.

Upon coming into the town of Hounslow, the gentlemen alighted, and commanded Parsons to surrender, adding, that if he did not instantly comply, they would alarm the town. He now dismounted, and earnestly entreated that he might be permitted to speak to them in private, which they consented to; and the parties being introduced to a room at an inn, Parsons surrendered his pistols, which were loaded and primed, and supplicated for mercy in the most pathetic terms.

In all probability he would have been permitted to escape, had not Mr. Day, landlord of the Rose and Crown at Hounslow, come into the room, and advised that he might be detained, as he conceived him very nearly to answer the description of a highwayman by whom the roads in that part of the country had been long infested. He was secured at the inn till the next day, and then examined by a magistrate, who committed him to Newgate.

Parsons was now arraigned for returning from transportation before the expiration of the term of his sentence: nothing therefore was necessary to convict him but the identifying of his person. This being done, he received sentence of death. His distressed father and wife used all their interest to obtain a pardon for him, but in vain: he was an old offender, and judged by no means a fit object for mercy.

While Parsons remained in Newgate, his behaviour was such that it could not be determined whether he entertained a proper idea of his dreadful situation. There is indeed but too much reason to fear that the hopes of a reprieve (in which he deceived himself even to the last moments of his life) induced him to neglect the necessary preparation for eternity.

His taking leave of his wife afforded a scene extremely affecting: he recommended to her parental protection his only child, and regretted that his misconduct had put it in the power of a censorious world to reflect upon both the mother and son.

He joined with fervent zeal in the devotional exercises, at the place of execution.

there was no probability of relieving himself from his difficulties, but by connecting himself in marriage with a woman of fortune.

Being eminently qualified in those accomplishments which are known to have a great influence over the female world, Parsons soon ingratiated himself into the esteem of a young lady possessed of a handsome independency bequeathed her by her lately deceased father. He informed his creditors that he had a prospect of an advantageous marriage; and as they were satisfied that the lady had a good fortune, they supplied him with every thing necessary for prosecuting the amour, being persuaded that, if the expected union took place, they should have no difficulty in recovering their respective demands.

The marriage was solemnized on the 10th of February, 1740, in the twenty-third year of his age. On this event, the uncle, who lived at Epsom, visited him in London, and gave him the strongest assurances that he would exert every possible endeavour to promote his interest and happiness, on condition that he would avoid such proceedings as would render him unworthy of friendship and protection. His relations in general were perfectly satisfied with the connexion he had made, and hoped that his irregular and volatile disposition would be corrected by the prudent conduct of his bride, who was justly esteemed a young lady of great sweetness of temper, virtue, and discretion.

A few weeks after his marriage, his uncle interceded in his behalf with the Right Honourable Arthur Onslow; and through the interest of that gentleman he was appointed an ensign in the thirty-fourth regiment of foot.

He now discharged all his debts, which proved highly satisfactory to his relations; and this conduct was the means of his obtaining further credit in times of future distress.

He hired a very handsome house in Poland-street, where he resided two years, in which time he had two children, one of whom died very young. From Poland-street, he removed to Panton-square, and the utmost harmony subsisted between him and his wife, who were much respected by their relations and acquaintances.

But it must be observed, that though his conduct in other respects had been irreproachable from the time of his marriage, he was guilty of unpardonable indiscretion as to his manner of living; for he kept three saddle-horses, a chaise and pair, several unnecessary servants, and

engaged in many other superfluous expenses that his income could not afford.

Unfortunately Parsons became acquainted with an infamous gambler, who seduced him to frequent gaming-houses, and to engage in play. He lost considerable sums, which were shared between the pretended friend of Parsons, and his wicked accomplices.

Parsons was now promoted to a lieutenancy in Colonel Cholmondely's regiment, which was ordered into Flanders, and was accompanied to that country by the abandoned gamester, whom he considered as his most valuable friend. The money he lost in gaming, and the extravagant manner in which he lived, in a short time involved him in such difficulties that he was under the necessity of selling his commission, in order to discharge his debts contracted in Flanders. The commission being sold, Parsons and his treacherous companion returned to England.

His arrival was no sooner known than his creditors were extremely urgent for the immediate discharge of their respective claims, which induced him to take a private lodging in Gough-square, where he passed under the denomination of Captain Brown. He pretended to be an unmarried man; and saw his wife only when appointments were made to meet at a public-house.

His creditors having discovered the place of his retreat, he deemed it prudent to remove; and at this juncture an opportunity offered by which he hoped to retrieve his fortune; and he therefore embarked as captain of marines on board the Dursley privateer.

Soon after the arrival of the ship at Deal, Parsons went on shore, provided with pistols, being determined not to submit to an arrest, which he supposed would be attempted. He had no sooner landed on the beach, than he was approached by five or six men, one of whom attempted to seize him; but Parsons, stepping aside, discharged one of the pistols, and lodged a ball in the man's thigh. He then said, he was well provided with weapons, and would fire upon them if they presumed to give him further molestation. Hereupon the officers retreated; and Parsons returned to the ship, which sailed from Deal the following morning.

They had been in the Channel about a week, when they made prize of a French privateer, which they carried into the port of Cork. Parsons being now afflicted with a sickness that prevailed among the French prisoners, was sent on shore for the recovery of his health. During his illness, the vessel sailed on another cruize, and he was no sooner in a

condition to permit him to leave his apartment, than he became anxious to partake of the fashionable amusements.

In order to recruit his finances, which were nearly exhausted, he drew bills of exchange on three merchants in London, on which he raised 60*l.*; and before advice could be transmitted to Cork, that he had no effects in the hands of the persons on whom he had drawn the bills, he embarked on board a vessel bound for England.

He landed at Plymouth, where he resided some time under a military character, to support his claim to which he was provided with a counterfeit commission. He frequented all places of public resort, and particularly where gaming was permitted. His money being nearly expended, he obtained a hundred pounds from a merchant of Plymouth, by means of a false draft upon an alderman of London. Some time after the discovery of the fraud, the injured party saw Parsons a transport prisoner on board a ship bound to Virginia, lying in Catwater Bay, where he assured him of an entire forgiveness, and made him a present of a guinea.

From Plymouth, Parsons repaired to London, and his money being nearly spent, he committed the following fraud, in conjunction with a woman of the town: taking his accomplice to a tavern in the Strand (where he was known), he represented her as an heiress, who had consented to a private marriage, and requested the landlord to send immediately for a clergyman. The parson being arrived, and about to begin the ceremony, Parsons pretended to recollect that he had forgotten to provide a ring, and ordered the waiter to tell some shopkeeper in the neighbourhood to bring some plain gold rings. Upon this the clergyman begged to recommend a very worthy man, who kept a jeweller's shop in the neighbourhood; and Parsons said it was a matter of indifference with whom he laid out his money; adding, that as he wished to compliment his bride with some small present, the tradesman might also bring some diamond rings.

The rings being brought, and one of each chosen, Parsons produced a counterfeit draft, saying, the jeweller might either give him change then, or call for payment after the ceremony; on which the jeweller retired, saying, he would attend again in the afternoon. In a little time, the woman formed a pretence for leaving the room, and upon her not returning soon, our hero affected great impatience, and, without taking his hat, quitted the apartment, saying, he would enquire of the people of

the house whether his bride had not been detained by some unforeseen accident.

After waiting a considerable time, the clergyman called the landlord; and as neither Parsons nor the woman could be found, it was rightly concluded, that their whole intention was to perpetrate a fraud. In the mean time, our hero and his accomplice met at an appointed place, and divided their booty.

Soon after this transaction, Parsons intimated to a military officer, that, on account of the many embarrassments he was under, he was determined to join the rebel army, as the only expedient by which he could avoid being lodged in prison. The gentleman represented the danger of engaging in such an adventure, and lest his distress should precipitate him to any rash proceeding, generously supplied him with forty guineas, to answer present exigencies.

He soon after borrowed the gentleman's horse, pretending that he had occasion to go a few miles into the country, on a matter of business; but he immediately rode to Smithfield, where he sold the horse at a very inadequate price.

That he might escape the resentment of the gentleman whom he had treated in so unworthy a manner, he lodged an information against him, as being disaffected to the government: in consequence of which he was deprived of his commission, and suffered an imprisonment of six months. He exhibited informations of a similar nature against two other gentlemen, who had been most liberal benefactors to him, in revenge for refusing any longer to supply him with the means of indulging his extravagant and profligate disposition.

In the year 1745, he counterfeited a draft upon one of the collectors of the excise, in the name of the Duke of Cumberland, for five hundred pounds. He carried the draft to the collector, who paid him fifty pounds in part, being all the cash that remained in his hands.

He went to a tailor, saying, he meant to employ him, on the recommendation of a gentleman of the army, whom he had long supplied with clothes; adding, that a captain's commission was preparing for him at the War-office. The tailor furnished him with several suits of clothes; but not being paid according to agreement, he entertained some suspicion as to the responsibility of his new customer; and therefore enquired at the War-office respecting Captain Brown, and learnt that a commission was making out for a gentleman of that name. Unable to get any part of the money due to him, and determined to be no longer trifled

with, he instituted a suit at common-law, but was nonsuited, having laid his action in the fictitious name of Brown, and it appearing that Parsons was the defendant's real name.

Parsons sent a porter from the Ram Inn, in Smithfield, with a counterfeit draft upon Sir Joseph Hankey and Co., for five hundred pounds. Parsons followed the man, imagining that if he came out of Sir Joseph's house alone, he would have received the money; and that if he was accompanied by any person, it would be a strong proof of the forgery being discovered; and as he observed Sir Joseph and the porter get into a hackney-coach, he resolved not to return to the inn.

He next went to a widow named Bottomley, who lived near St. George's Church, and saying that he had contracted to supply the regiment to which he belonged with hats, gave her an order to the amount of a hundred and sixty pounds. He had no sooner got possession of the hats, than he sold them to a Jew for one-half of the sum he had agreed to pay for them.

Being strongly apprehensive that he could not long avoid being arrested by some of his numerous and highly exasperated creditors, by means of counterfeit letters, he procured himself to be taken into custody, as a person disaffected to the king and government; and was supported without expense, in the house of one of the king's messengers, for the space of eighteen months.

Being released from the messenger's house, he revolved in his mind a variety of schemes for eluding the importunity of his creditors, and at length determined to embark for Holland.

He remained in Holland a few months, and when his money was nearly expended he returned to England. A few days after his arrival in London, he went to a masquerade, where he engaged in play to the hazard of every shilling he possessed, and was so fortunate as to obtain a sufficient sum for his maintenance for several months.

His circumstances being again distressed, he wrote in pressing terms to his brother-in-law, who was an East India director, intreating that he would procure him a commission in the Company's service, either by land or sea. The purport of the answer was, that a gentleman in the Temple was authorized to give the supplicant a guinea, but that it would be fruitless for him to expect any further favours.

Having written a counterfeit draft, he went to Ranelagh on a masquerade night, where he passed it to a gentleman who had won some small sums of him. The party who received the draft offered it for payment

in a day or two afterwards, when it was proved to be a counterfeit; in consequence of which Parsons was apprehended, and committed to Wood-street Compter.

As no prosecutor appeared, Parsons was necessarily acquitted; but a detainer being lodged, charging him with an offence similar to the above, he was removed to Maidstone Gaol, in order for trial at the Lent Assizes at Rochester.

Mr. Carey, the keeper of the prison, treated Parsons with great humanity, allowing him to board in his family, and indulging him in every privilege that he could grant, without a manifest breach of the duties of his office. But such was the ingratitude of Parsons, that he formed a plan, which, had it taken effect, would have utterly ruined the man to whom he was indebted in such great obligations. His intention was, privately to take the keys from Mr. Carey's apartment; and not only to escape himself, but even to give liberty to every prisoner in the gaol: and this scheme he communicated to a man accused of being a smuggler, who reported the matter to Mr. Carey, desiring him to listen at an appointed hour at night, when he would hear a conversation that would prove his intelligence to be authentic. Mr. Carey attended at the appointed time, and being convinced of the ingratitude and perfidy of Parsons, he abridged him of the indulgences he had before enjoyed, and caused him to be closely confined.

Being convicted at the assizes at Rochester, he was sentenced to transportation for seven years; and in the following September he was put on board the Thames, Captain Dobbins, bound for Maryland, in company with upwards of one hundred and seventy other convicts, fifty of whom died in the voyage. In November, 1749, Parsons was landed at Annapolis, in Maryland, and having remained in a state of slavery about seven weeks, a gentleman of considerable property and influence, who was not wholly unacquainted with his family, compassionating his unfortunate situation, obtained his freedom, and received him at his house in a most kind and hospitable manner.

Parsons had not been in the gentleman's family many days before he rode off with a horse which was lent him by his benefactor, and proceeded towards Virginia; on the borders of which country he stopped a gentleman on horseback, and robbed him of five pistoles, a moidore, and ten dollars.

A few days after, he stopped a lady and gentleman in a chaise, attended by a negro servant, and robbed them of eleven guineas and some silver:

poison twice, to poison a dog that broke some things; but had no order for it.

Mr. *Jones* demanded, if she ever found her mistress inclined to do herself a mischief? She answered, she never did.

Mr. *Jones* asking, if Mr. Cowper's horse stood at her mistress's house, and if Mr. Cowper ever returned to Mrs. Stout's again? She answered, his horse stood there, but Mr. Cowper never returned after that night he went away, in the manner she related.

Mr. *Jones* asking, if Mr. Cowper told them he would lie there? The maid answered, when he went from dinner he said so.

Berry, the miller, was sworn, and said, that going out at six in the morning, to shoot a flush of water, he saw something floating which proved to be the clothes of the deceased, her body being five or six inches under water; that she lay on her right side, her right arm being driven between the stakes, which stood about a foot asunder; that the water was then about five foot deep: she did not appear at all swelled, and her eyes were open.

John Venables said, that he saw the corpse in the river; that she lay on her right side, rather above the water than under, insomuch that one of her ruffles appeared above the water; and both this witness and the last agreed, that her eyes were open; and that there were no weeds, or any thing under the corpse, to hinder it from sinking.

Leonard Dell deposed, that he saw the corpse floating, and that part of her clothes were above the water; that her face might also be seen, it was so near the surface, and her eyes were open; and agreed with the former witnesses, that she lay on her right side, with her head and right arm between the stakes or piles, that were fixed in the river; he believed there might be about five foot of water, and there was nothing under her to prevent the sinking of the corpse: that he and another took the corpse out of the water, and laid it on the bank, where it remained an hour: she was laced, and he did not perceive her to be at all swelled, or that any water came out of the corpse on moving it; only a froth came out of her mouth and nostrils, about as much as he could hold in his hand.

John Ulse also testified, that he helped to take her out of the water, and she lay on one side between the stakes; and that upon taking her out, no water came from her, only some froth at her nostrils; that the stakes did not bear up the corpse, and there was nothing under it to keep it from sinking.

Catherine Dew deposed, that she saw the corpse taken out of the water; that she lay on one side in the river, her teeth clenched, the water flowing a little over her face, and some part of her coats above the water, her right arm lying against a stake; that she was laced, and not at all swelled, and she saw a purging froth issue out of her nose and one of her eyes.

Thomas Dew deposed, that she lay on her side in the water, her right arm within the stakes, and her left arm without; that her shoes and stockings were clean, without any mud or dirt on them; and he did not think the corpse had ever sunk to the bottom; and, when she was taken out, no water came from her, only some froth out of her nose; and she was not at all swelled.

Edward Blackno (and four other witnesses) confirmed the testimony of the former witnesses, as to the posture of the corpse in the water as did also William Edmunds, and William Page.

The medical evidence which would establish the fact of strangling and drowning was then adduced on the part of the prosecution. Though extending to considerable length it amounted to this:

Mr. *Dimsdale*, a surgeon, said, that he went at the request of old Mrs. Stout to view the corpse, together with Mr. Camlin, the same day it was found; and he observed a little swelling on the side of the neck, and she was black on both sides, particularly the left side, and between the breasts up towards the collar-bone.

It being demanded how her ears were, he said, there was a blackness on both ears, and a settling of blood.

Mr. *Cowper* then asked him, if he did not say that the settling of blood was no more than a common stagnation, before the Coroner's inquest? He answered, he did not remember a word of that; but he confessed, that there was no mark or circle about her neck.

Sarah Kimpson said, that she helped to lay out the corpse, and there was a settlement of blood behind the ear, bigger than her hand would cover, and another settlement of blood under her collar-bone: but she saw no mark about the neck: that the body had no water in it, as she could perceive.

Other women gave similar testimony, some being certain as to the mark round the neck.

Mr. *Coatsworth*, the surgeon, deposed, that the body, having been buried six weeks, was taken up by her friends; and he went to Hertford, at the request of old Mrs. Stout, to see it opened, and that among

other matters (which he spoke to) he observed that from the intestines not having rotted, there could have been no water in the stomach, and the woman could not have been drowned.

The other medical witnesses for the crown came to the same conclusion, on examination of the body: one of them, a Dr. *Coatsworth*, being asked what was his opinion of bodies found floating without any water in them? He answered, every one that was drowned, was suffocated, by water passing down the wind pipe into the lungs by respiration; and, at the same time, the water pressing upon the gullet, there would be a necessity of swallowing great part of it into the stomach: he had been in danger of drowning himself, and was forced to swallow a great quantity of water. If a person was drowned, and taken out immediately, as soon as the suffocation was effected, he should not wonder if there was but little water in the stomach; but if it lay in the water several hours, it must be strange if the stomach should not be full of water; but he would not say it was impossible to be otherwise.

Mr. *Cowper* demanding, whether he attempted to drown himself, or was in danger of drowning by accident? He answered, by accident: whereupon Mr. Cowper observed, there was a difference where a person drowned himself on purpose, and was drowned by accident; for when he was drowned by accident, he struggled a great while, and took in much water before he died; but when a person threw herself into the water on purpose to be drowned, she died immediately, receiving but little water before she expired.

The medical evidence further showed that there existed no grounds for impugning the moral condition of the deceased.

This evidence being concluded, Mr. *Jones*, the king's counsel, said, he hoped they had given the jury satisfaction, that the deceased did not drown herself, but was carried into the water after she was killed: for, if it was true that all dead bodies, thrown into the water, swam; and bodies, that fell into the water alive, and were drowned, sunk, that was sufficient evidence she was not drowned, but came by her death some other way. They had shewn, that Mr. Cowper was the last man in her company; and what became of her afterwards, nobody could tell: and they should now proceed to give evidence, that, notwithstanding all the civilities and kindness that passed between this family and him, when the noise of the fact was spread abroad, Mr. Cowper did not come to

consult with old Mrs. Stout what was proper to be done; but rode out of town next day, without taking any notice of the accident.

John Archer deposed, that he saw Mr. Cowper take horse at the Glove, on Wednesday morning after the assizes, and ride out the back way; which Mr. Cowper observed, was the usual way he went the circuit into Essex.

George Aldridge, the hostler of the Glove, also testified, that he saw Mr. Cowper take horse on the Wednesday, and go the way that led to Chelmsford.—He deposed also, that Mr. Cowper sent him for his horse to Mrs. Stout on the Tuesday night, telling him he should have occasion for the horse to go out with the judge next morning; and he went three times before they would deliver the horse.

Mr. *Cowper* thereupon said, he sent for his horse, because he heard she had drowned herself; and he thought it was prudent to do so, for fear the lord of the manor should seize every thing that was there, as forfeited.

Mr. *Jones* observed, he did not think fit to take his horse himself, though he put him up there: and now they should proceed to give evidence against the other three prisoners.

John Gurrey testified,

That, at the last assizes, Mr. Stevens and Mr. Rogers came and hired a lodging of his wife, in the afternoon, when he was at church; that they came again to his house about eleven at night, and brought Mr. Marson with them: they all went up stairs, had a fire lighted, and asked for the landlord, whereupon he (Gurrey) came up to them, and fetched them wine, and at their desire, sat down and drank with them: then they asked, if Mrs. Sarah Stout lived in town, and if she was a fortune? And he promised to shew them Mrs. Stout the next day: and Mr. Rogers and Stevens telling Marson he was her old sweetheart; Marson answered, she had thrown him off, but a friend of his was even with her by that time: that Mr. Marson putting by his wig, he saw his head was wet; and Marson said he was just come from London, and that made him in such a heat: that the next morning he (the witness) hearing of the accident, went down to Mrs. Stout's, and saw them laying her out in the barn, and meeting Mr. Marson, Mr. Stevens, and Mr. Rogers as he came back, he told them the news, and they desired him to go with them to the barn again, which he did; and while he was viewing of the corpse, they went away: and about eleven the same morning, he saw Mr. Marson and Mr. Stevens with Mr. Cowper in the market-place.

Here Mr. *Cowper* demanded of Gurrey, if he did not say to his wife, they must not meddle with Sarah Walker, the maid of the deceased; because she was a witness against the Cowpers? Gurrey thereupon acknowledged that, upon his wife's saying she suspected Sarah Walker, he bid her not concern herself with her, for fear of taking off her evidence.

The evidence for the king being here closed, and Mr. Cowper directed to enter upon his defence, he said:—

"Now they have done on the part of the king, my lord and you gentlemen of the jury, I must beg your patience for my defence: I confess it was an unfortunate accident for me, (as Mr. Jones calls it,) that I happened to be the last person (for ought appears) in the company of a melancholy woman. The discourse occasioned by this accident, had been a sufficient misfortune to me, without anything else to aggravate it; but I did not in the least imagine that so little, so trivial an evidence as here is, could possibly have affected me to so great degree, as to bring me to this place, to answer for the worst fact that the worst of men can be guilty of.

My lord, your lordship is well aware, that I have appeared at the bar for my clients; but I must say too, that I never appeared for myself under this or the like circumstances, as a criminal for any offence whatsoever.

Mr. Jones very well said, when he spoke on the part of the king, that, if this gentlewoman was murdered, the crime was villanous, base, barbarous, and cruel; and, for my part, I think so too: the crime would be so great, that it never could be sufficiently condemned: but at the same time I may aver, that to suppose a murder without good grounds for it, and afterwards to charge innocent men with it knowingly and maliciously, is to a trifle as base and barbarous as the murder itself could be.

My lord, I speak for my own part; I know not at what price other men may value their lives; but I had much rather myself was murdered, than my reputation; which yet, I am sensible, has suffered greatly hitherto, by the malice and artifice of some men, who have gone pretty far in making this fact, as barbarous as it is, to be credited of me; and, therefore, I must beg your lordships, and the jury's patience, while I not only defend my life, but justify myself also, from these things that have unjustly aspersed me, by the conspiracy and artifice of my accusers.

My lord, in all the evidence that has been given, I must observe, there is no positive evidence (with submission) to induce the jury, or

any one, to believe that this gentlewoman was murdered; but they go upon suppositions and inferences, which are contradicted by other circumstances, in the very evidence of the prosecutor, that make full as strong to prove that she was not murdered, as that she was; so that, as it stands, it can amount only to a bare supposition, that she was murdered by any body.

Then, as to the evidence that particularly relates to myself or the gentlemen who stand with me at the bar, that they, or I were concerned in it (if she was murdered), there is not one syllable of proof; at most, it amounts but to make us only suspected of a murder, not proved, but only suspected; this, I observe, upon the evidence, as it now stands without answer, as it has been given on the king's part; and how far, in the case of life, men shall be affected with evidence of this nature, which neither proves the murder in general, nor that they did it in particular, though no defence was made, or any further answer given, I submit to your lordship's and the jury's judgment.

But, my lord, I do not doubt but I shall be able to wipe away, even that remote suspicion, by my defence: they have been long in their evidence for the king; and, therefore, I must beg your patience while I give a particular answer to every part of it, in as good a method as I am able; and I will waste as little time as may consist with the justifying of my reputation; for which I know your lordship will have as tender a regard, to see it doth not suffer unjustly, as for my life itself.

And, I promise your lordship, I shall trouble you with no evidence, which is not clear and plain, no inuendos or suspicions; but I shall prove fully and clearly, in the first place, that there was no ground at all in this case, to suppose she was murdered by any one but herself.

The first fact that they insisted upon, to infer a murder from it, was that the body was found floating: now, my lord, that fact I am able, by the evidence I have, as well as from that of the prosecutor, to deny; for the fact was directly otherwise, that is, she was not found floating.

And whereas, the prosecutor's witnesses, who have been produced to this point, are obscure and poor men, and your lordship observes, have been taught to say generally that she floated, which, when they are required to explain, and describe how she lay, they contradict themselves in, by shewing she lay sideways between the stakes, and almost all under water. Now I shall give your lordship and the jury, a full and particular account and description from the parish officers, men em-

ployed by the coroner to take the body out of the water, of the very manner and posture in which it was first found; which they are much better able to do than the prosecutor's witnesses, having seen her before all or most of those people; and these officers clearly agree that her body was under water, when found, except some small appearance of her petticoats, near or on the surface of the water, which may be very easily accounted for; because the stakes, the witnesses mention, and which are driven into the ground across the river, to prevent weeds and rubbish from running into the mill-stand, as the witnesses have already said, about a foot distance from one another, and are set with their feet from the mill, and their heads inclining towards the mill with the stream. Now, my lord, every body knows, that though a drowned body will at first sink, yet it is buoyant, and does not go downright, and rest in one place like lead; for a human body is seldom or never in a stream found to lie where it was drowned; a body drowned at Chelsea, has been often found by fishermen at London, and that before it came to float above water. Now if a body is so buoyant, as that it is driven down by the impellent force of the current, though it do not float above water, it seems a consequence, that when it comes to be stopped and resisted by the stakes which lie with their heads downwards, inclining with the stream, the stream bearing the body against the stakes, must needs raise it upwards, to find another passage, if possible, when the ordinary and natural is obstructed. I have seen, I remember, that where weeds have been driven down a river, and have been rolled along at the bottom, when they have come down to a board or stakes of a wier or turnpike, they have been by the force of the water, raised up against those boards or stakes, and forced over them; though, without such obstruction, they had undoubtedly continued to roll under the water. I do not know of any one symptom they pretend to, of her not being drowned, from any thing observed of her in the water. Then, as to her flatness, when she was laid in her coffin, I shall shew it as a common and natural accident; sometimes drowned bodies are swelled more, sometimes less, sometimes not at all: I think it hardly requires a physician to prove, that a body may be drowned with very little water; that a man may be drowned by strangling, or suffocation caused by a little water in the lungs, without any great quantity of water received in the body, is a certain and established truth; for I am told that when respiration ceases, the party dies, and can receive no water after that; so that nothing is to be inferred from a body's having

more or less water found in it, especially if your lordship will give me leave to observe this distinction, where a body is voluntarily drowned, and where it is drowned by accident; for people that fall in by accident do struggle and strive as long as they can; every time they rise they drink some water into the stomach, to prevent its passing into the lungs, and are drowned no sooner than needs must; but persons that voluntarily drown themselves, to be sure, desperately plunge into the water, to dispatch a miserable life as soon as they can; and so that little quantity in the lungs which causes death, may be the sooner taken in, after which no more is received; and I hope, by physicians, it will appear, there is good ground for this difference.

The next is the evidence that the surgeons have given on the other part, relating to the taking this gentlewoman out of her grave, after she had been buried six weeks; whether this ought to have been given in evidence, for the reasons I hinted at, in a criminal case, I submit to your lordship; but as it is, I have no reason to apprehend it, being able to make appear, that the gentlemen who spoke to this point, have delivered themselves in that manner, either out of extreme malice, or a most profound ignorance: this will be so very plain upon my evidence, that I must take the liberty to impute one, or both of those causes, to the gentlemen that have argued from their observations upon that matter.

And now, if your lordship will but please to consider the circumstances under which they would accuse me of this horrid action, I do not think they will pretend to say, that in the whole course of my life, I have been guilty of any mean or indirect action; and I will put it to the worst enemy I have in the world to say it. Now, for a man in the condition I was in, of some fortune in possession, related to a better, in a good employment, thriving in my profession, living within my income, never in debt, (I may truly say, not five pounds at any one time, these eight years past,) having no possibility of making any advantage by her death, void of all malice; and, as appears by her own evidence, in perfect amity and friendship with this gentlewoman, to be guilty of the murdering her, to begin at the top of all baseness and wickedness, certainly is incredible.

My lord, in this prosecution, my enemies seeing the necessity of assigning some cause, have been so malicious to suggest before, though not now, when I have this opportunity of vindicating myself publicly that I have been concerned in the receipt of money for this gentle-

woman, had her securities by me, and sometimes that I had been her guardian, or her trustee, and I know not what I now see the contrivers and promoters of that scandal, and they know it to be base, false, and malicious: I never was concerned in interest with her directly or indirectly; and so I told them when I was before my Lord Chief Justice: it is true, it was then just suggested by the prosecutors, I then denied it, and I deny it still,—I thank God, I have not been used, nor have I needed, to deny the truth.

My lord, you find the prosecutors have nothing to say to me upon this head, after all the slanders and stories they have published against me, of my having money in my hands which belonged to the deceased: but though they do not stir it, I will, and give your lordship a full account of all that ever was in that matter. When I lodged at Hertford, some time since she desired me to recommend to her a security for £200 if it came in my way: my lord, when I came to town, I understood that one Mrs. Puller, a client of mine, had a mortgage formerly made to her by one Mr. Loftus of Lambeth, in Surry, for the like sum; and that she was willing to have in her money: I wrote to this gentlewoman, the deceased, to acquaint her of the security; she thereupon did send up £200 and some odd pounds for interest; the account of which I produced to my Lord Chief Justice: this money was sent to me by Mr. Cramfield, as I have been informed, and by him given to Mr. Toller's clerk, and by him brought publicly to me.

My lord, this mortgage I immediately transferred by assignment indorsed on the back of it, and Mrs. Habberfield, a trustee for Mrs. Puller, signed and sealed it; and that very £200 and interest due was at one and the same time paid to Mrs. Puller, and by her the principal was paid to her daughter, in part of her portion: all this was transacted the beginning of December last, and she was not drowned till the 13th of March following; and, my lord, these people that are now the prosecutors, did own before my Lord Chief Justice, that they had found this mortgage amongst the deceased's writings in her cabinet at the time of her death. Now, my lord, I say, that, saving this one service I did her, as I said, in December last, I never was otherwise concerned with her in the receiving or disposing of any of her money; nor had I ever any of her securities for money in my keeping; and I defy any adversary I have, to shew the contrary.

My lord, as there appears no malice, no interest, so they have proved for me, that there was no concealment of shame to induce me to com-

mit so barbarous an action; otherwise, perhaps, now they find they can assign no other cause, they would content themselves to give that reason, and fling that scandal at me; and though I take it, by the experience I have had of them, they did not design to do me any favour, yet, I thank them, in endeavouring to vindicate her honour, they have secured my reputation against that calumny; and though I am satisfied, as I said, they did not intend me kindness, yet I thank God, they have given me a just opportunity to take advantage of their cunning, for the clearing my innocence in that particular.

I will shew your lordship in the next place, that it is utterly impossible I could be concerned in this fact, if I had had all the motives and provocations in the world to have done it: I shall shew your lordship, in point of time, it could not be.

The maid, *Sarah Walker*, who is the single witness, I take it, that says any thing in the least relating to me, said but now, the clock had struck eleven before she carried up the coals, and about a quarter of an hour after, while she was warming the bed above stairs, she heard the door clap, and sometime after she came down, and found that I and her mistress were gone: now, in point of time, I shall prove it utterly impossible I could be guilty of the fact I am accused of, being seen to come into the Glove Inn as the town clock struck eleven, and staying there more than a quarter of an hour, was, after several things done, at my lodging, in bed before twelve o'clock, and went no more out that night, as I shall prove. As for that little circumstance of sending for my horse, which they have made use of all along to back this prosecution, their very telling me of that matter, shows how they are put to their shifts to justify their accusing me; I say, in prudence, I ought to have done what I did: I sent for him on the Tuesday, but as their witness said, I told him at the time I bid him fetch my horse, not to use then, nor till by the course of the circuit I was to go into Essex with the judges the next morning; and till then the prosecutor's witness, who is the hostler at the Glove Inn, was ordered to set him up there, to litter him down, and to take care of him, and feed him; and that he should be ready for me to go to Chelmsford on the morrow, whither I went with the other counsel the next morning, being Wednesday: and this, my lord, is the whole of that matter.

My lord, this business slept near two months after the coroner's inquest, before I heard of it, or imagined myself to be concerned in it, and was never stirred, till two parties, differing on all other occasions,

had laid their heads together: I beg leave to let your lordship a little into that matter, to shew you how this prosecution came to be managed with so much noise and violence as it has been. I can make it appear, that one of the greatest of the Quakers, Mr. Mead by name, has very much, and indirectly too, concerned himself in this matter: it seems, they fancy the reputation of their sect is concerned in it; for they think it a wonderful thing, nay, absolutely impossible, (however other people may be liable to such resolutions,) that one, who was by her education entitled to the light within her, should run headlong into the water, as if she had been possessed with the devil; of this they think their sect is to be cleared, though by spilling the blood of four innocent men. The other sort of people that concur with the Quakers in this prosecution, I shall mention, now I come to observe what the witnesses are that have been produced against me: some of them I have nothing to object to, but that they are extremely indigent and poor, and have been helped by the prosecutor; those that are so, say nothing as to me; others who live in this town, and give their opinions of the manner of her death, are possest with much prejudice against me, upon feuds that have risen at the elections of my father and brother in this town; and these, with the Quakers who have wholly drest up this matter for several ends; the Quakers to maintain the reputation of their sect, and the others to destroy, or break at least, the interest of my family in this place. But, however effectual these designs may have been, to have made a great noise in the world out of nothing; I am satisfied now, that I am in a court of justice, where no person's reputation, much less his life, will be sacrificed to the policy or malice of a party without proof; and, therefore, I have taken up so much of your time, to set the true rise of this prosecution before you in a clear light.

My lord, as to my coming to this town on Monday, it was the first day of the assizes, and that was the reason that brought me hither; before I came out of town, I confess, I had a design of taking a lodging at this gentlewoman's house, having been invited, by letter, so to do; and the reason why I did not, was this: my brother, when he went the circuit, always favoured me with the offer of a part of his lodging, which, out of good husbandry, I always accepted; the last circuit was in parliament time, and my brother being in the money-chair, could not attend the circuit as he used to do: he had very good lodgings, I think one of the best in this town, where I used to be with him: these were always kept for him, unless notice was sent to the contrary. The Friday before

I came down to the assizes, I happened to be in company with my brother and another gentleman, and then I showed them the letter, by which I was earnestly invited down to lie at the house of this gentlewoman during the assizes (it is dated the 9th of March last); and, designing to comply with the invitation, I thereupon desired my brother to write to Mr. Barefoot, our landlord, and get him, if he could, to dispose of the lodgings; for, said I, if he keeps them, they must be paid for, and then I cannot well avoid lying there: my brother did say, he would write, if he could think on it. And thus, if Mr. Barefoot disposed of the lodgings, I own I intended to lie at the deceased's house; but, if not, I looked on myself as obliged to lie at Mr. Barefoot's. Accordingly I shall prove, as soon as ever I came to this town, in the morning of the first day of the assizes, I went directly to Mr. Barefoot's (the maid and all agree in this) and the reason was, I had not seen my brother after he said he would write, before I went out of London; and, therefore, it was proper for me to go first to Mr. Barefoot's, to know whether my brother had wrote to him, and whether he had disposed of the lodgings or not. As soon as I came to Mr. Barefoot's, there was one Mr. Taylor, of this town, came to me, and I, in his hearing, asked Mr. Barefoot, his wife, and maid-servant, one after another, if they had received a letter from my brother, to unbespeak the lodgings? They told me, no: that the room was kept for us; and I think, that they had made a fire, and that the sheets were airing. I was a little concerned he had not written; but, being satisfied that no letter had been received, I said immediately, as I shall prove by several witnesses, if it be so, I must stay with you; I will take up my lodging here: thereupon I alighted, and sent for my bag from the coffee-house, and lodged all my things at Barefoot's: and thus I took up my lodging there as usual. I had no sooner done this, but Sarah Walker came to me from her mistress to invite me to dinner, and accordingly I went and dined there; and when I went away, it may be true, that, being asked, I said I would come again at night; but that I did say I would lie there, I do positively deny; and, knowing I could not lie there, it is unlikely I should say so. My Lord, at night I did come again, and paid her some money, which I received from Mr. Loftus, who is the mortgager for interest of the £200. I before mentioned (it was six pounds odd money, in guineas and half-guineas,) I wrote a receipt, but she declined the signing of it, pressing me to stay there that night, which I refused, as engaged to lie at Mr. Barefoot's, and took my leave of her; and

that very money, which I paid her, was found in her pocket, as I have heard, after she was drowned.

Now, my Lord, the reason that I went to her house at night, was, first, as I said, to pay her the interest money; in the next place, it was but fitting, when I owned myself under a necessity of disappointing her, and lying at Barefoot's, to go to excuse my not lying there; which I had not an opportunity at dinner-time to do. My Lord, I open my defence shortly, referring the particulars to the witnesses themselves, in calling those who will fully refute the suppositions and inferences made by the prosecutors, whom first, my Lord, I shall begin with, to show there is no evidence of any murder at all committed; and this, I say again, ought to be indisputably made manifest and proved, before any man can be so much as suspected for it."

Judge *Hatsel* bade Mr. Cowper not flourish too much, but call his witnesses, and then make his observations.

Mr. *Cowper* then called *Robert Dew*, who said, that he saw Sarah Stout taken up; that she lay in the river, covered with the water about half a foot, and had a striped petticoat on, but nothing could be seen above water; and that when he heaved her up, he found several sticks and flags under her; that she lay on her right side in the water, her head leaning down, and her arm between the stakes, which stood sloping, leaning down the stream a little: that when she was taken out, he perceived a white froth come from her mouth and nose, and, as they wiped it away, more came out.

Young, the constable, confirmed the evidence of the last witness, differing only in this, that he saw part of her coat lie on the top of the water, and that they found six guineas, ten shillings, and threepence-halfpenny in her pockets.

Wall, one of the coroner's inquest, deposed, that there were no marks upon the body when they viewed, only a little mark about her ear, and something near her collar-bone; and that Mr. John Dimsdale told them, these marks were no more than usual in such cases: it was only a stagnation of the blood.—Other witnesses testified, that she frothed pretty much at the mouth.

Mr. Cowper's medical witnesses numbered amongst them some of the most eminent names that have ever been in the profession. They consisted of Dr. Sloane, Dr. Garth, Dr. Morley, Dr. Gilstrapp, Dr. Harriot, Dr. Wollaston, Dr. Crell, Mr. William Cooper, the great anatomist, Mr. Bartlett, and Mr. Camlin. They had all been in court whilst the medical

evidence for the crown was given. They all accorded in what they asserted, and the sum of what they stated may be taken from the testimony of the four following.

Dr. *Garth* said, it was impossible the body should have floated unless it had rested or been entangled with the stakes, because all dead bodies fall to the bottom; and, as all the witnesses agreed she was found upon her side, it was as hard to conceive how she should float in this posture, as that a deal board should float edgeways: therefore it was plain she was entangled, or the posture would have been otherwise. As to the quantity of water in her, it need not be very great; but, he must own, the water would force itself into all cavities where there was no resistance. He believed, when she threw herself in, she might not struggle to save her life, and so not sup up much water: however, he doubted not but some water fell into her lungs, because the weight of it would force itself down; but this might imperceptibly work or fall out: nor did he think water in the body would promote putrefaction; for, in some places, they kept flesh meat from corruption by preserving it in water: and, it was well known, it would putrify less in water than when exposed to air. And, being asked again as to the sinking of dead bodies, he persisted in his opinion, that all dead bodies would sink, unless prevented by some extraordinary accident; as, if a strangled body be thrown into the water, and the lungs being filled with air, the cord be left about the neck, in that case it might float, because of the included air, as a bladder does; but here was no cord, or any mark of it, only a common stagnation; that seamen were mistaken, when they thought they swam: he had made the experiment on other animals, and they all sunk. Being asked, if any quantity of water could pass into the cavity of the thorax? he answered, it was impossible there should be any, till the lungs were quite rotten; there was no way but by the lungs, which were invested with so strong a membrane, that they could not force breath through it without their blow-pipes.

Dr. *Morley* said, there was no necessity she should have a great quantity of water in her; if she drew into her lungs two ounces of water, it was the same thing as to drowning her, as if there had been two tons. They drowned a dog the last night, and dissected him, and found not a spoonful of water in his stomach, and about two ounces in his lungs; and the like quantity in another they drowned; that they both frothed at the mouth and nose; and if bodies swam that had been lately killed, he thought it was by accident: and he was of opinion, there could be

no water in the thorax, unless by an imposthume, or some violence to nature.

Dr. *Wollaston* was of opinion, it was impossible to discover if a person was drowned, six weeks afterwards; and that if there had been never so much water in the body, it must have forced its way out before that time: that he knew two people drowned, and taken up next day; one was ready to burst with water, and the other had not the least sign of water in him, except a watery froth at his mouth and nostrils.

Mr. *Cooper*, the anatomist, deposed, that three ounces of water, in the windpipe, was enough to drown a person; and admitted, that bodies necessarily sink in water if no distention of their parts buoy them up: that there could be no water remain in the body after six weeks' time; and it was ridiculous to expect any in the thorax, unless the lungs had suffered some aposthumation; and as to the rest, he concurred with the physicians produced by the prisoner.

Then Mr. *Cowper* proceeded to call witnesses to show that the deceased was a melancholy woman.

Mr. *Bowd*, a tradesman of Hertford, deposed, that observing the deceased to be melancholy, he asked her, if she was in love; and she confessed she was; but said, the world should not say she changed her religion for a husband: and that, having lately bought a gown of this witness, she said, she believed she should never live to wear it.

Mr. *Firmin* also testified, that the deceased was melancholy.

Mrs. *Bendy* deposed, that she acknowledged herself extremely melancholy, insomuch that her mind was disordered by it.

Mrs. *Low* testified, that the deceased often complained she was melancholy, and confessed she was in love; that she said she would take her full swing of melancholy, when her mother was abroad, and lay a-bed a week; that at another time she said, her melancholy had occasioned an intermitting fever; and being advised to send for a physician, she said, her distemper lay in her mind, and not in her body: she would take nothing, and the sooner it killed her, the better; and that now she delighted neither in reading or any thing else.

Then Mrs. *Cowper*, wife of the prisoner's brother, Mr. William Cowper, (afterwards Lord Chancellor,) being called as a witness, testified,

That she was frequently in the company of the deceased, both at London and in the country, and she was extremely melancholy; and the witness suspecting it was upon Mr. Marson's account, asked, why she did not marry him, and make herself easy? but she said, she could not;

that she appeared disturbed also at the preaching of a Quaker waterman, who gathered a rabble of people about him before her mother's door; and, preaching to them, arraigned her conduct; that the deceased once having a fever, said, she was in great hopes it would carry her off, and neglected herself with that view, often wishing she were dead; that, at another time, being very melancholy, the prisoner's wife said, "For God's sake keep such thoughts out of your head as you have had: talk no more of throwing yourself out of a window." To which the deceased answered, "I may thank God that ever I saw your face, otherwise I had done it; but I cannot promise I shall not do it."

Here Mr. Cowper proceeded to open another very singular and important part of his evidence: he said, that being at Hertford in the long vacation, and Mr. Marshall of Lyon's-inn coming down to visit him there, he introduced him into the company of the deceased, and he made his addresses to her, and was well received as a lover; but walking out one evening with Mr. Marshall, Mrs. Crooke, and the deceased, and Mr. Marshall and Mrs. Crooke being a little before them, Mrs. Stout (the deceased) said to him, the prisoner, she did not think he had been so dull; and he, being inquisitive to know in what his dulness consisted? She answered, "What! do you imagine I intend to marry Mr. Marshall?" And he replying, if she did not, she was to blame in what she had done; Mrs. Stout said, "No, I thought it might serve to divert the censure of the world, and favour our acquaintance;" and that he would produce some letters to confirm this, after he had called Mr. Marshall.

Mr. *Marshall* deposed that he came down to Hertford in the long vacation, to visit Mr. Cowper, and met with Mrs. Sarah Stout first at his lodgings; that she gave him frequent opportunities of improving his acquaintance; and, by the manner of his reception, he had no reason to suspect the use he was designed for; but, upon applying himself to her afterwards, in a way of courtship, he received a very fair denial, and there his suit ended. Mr. Cowper had been so friendly to give him notice of some things, that convinced him he ought to be thankful he had no more to do with her; that he took her at her word, when she refused him, having, partly by his own observation, but more by Mr. Cowper's friendship, been pretty well able to guess at her meaning.

Then two letters from the deceased to Mr. Marshall (the first dated the 26th of December, 1697, the other without date), were read, which shewed there was a friendly correspondence carried on between them, but nothing more.

After which, Mr. Cowper produced a letter from the deceased to him-

self, but directed to Mrs. Jane Ellen, at Hargrave's coffee-house, to prevent suspicion; which letter was in the following words:—

"*March the 5th.*

"SIR,—I am glad you have not quite forgot that there is such a person as I in being; but I am willing to shut my eyes, and not see anything that looks like unkindness in you, and rather content myself with what excuses you are pleased to make, than be inquisitive into what I must not know. I should very readily comply with your proposition of changing the season, if it were in my power to do it; but, you know, that lies altogether in your own breast. I am sure the winter has been too unpleasant for me to desire the continuance of it; and I wish you were to endure the sharpness of it but for one hour, as I have done for many long nights and days, and then, I believe, it would move that rocky heart of yours, that can be so thoughtless of me as you are; but if it were designed for that end, to make the summer the more delightful, I wish it may have the effect so far, as to continue it to be so too, that the weather may never overcast again: the which, if I could be assured of, it would recompense me for all that I ever suffered, and make me as easy a creature as I was the first moment I received breath; when you come to H—— pray let your steed guide you, and do not do as you did the last time; and be sure order your affairs to be here as soon as you can, which cannot be sooner than you will be heartily welcome to your Very sincere Friend.

"For Mrs. Jane Helen, at Mr. Hargrave's, near Temple Bar, London."

Then another letter from the deceased to the prisoner, dated the 9th of March, was read, and is as follows:—

"SIR,—I wrote to you by Sunday's post, which I hope you have received; however, as a confirmation, I will assure you, I know of no inconvenience that can attend your cohabiting with me, unless the Grand Jury should thereupon find a bill against us; but I will not fly for it: for come life, come death, I am resolved never to desert you; therefore, according to your appointment, I will expect you, and then I shall only tell you that I am Yours, &c."

Mr. *William Cowper*, the prisoner's brother, was called to give evidence for him: he said, he would bear his brother witness, that it was with great unwillingness he produced those letters; nothing but the lives of those gentlemen who were tried with him could have inclined him to that.

He deposed further, that Mrs. Stout being in London, sent his brother word she would give him a visit at his chamber; to prevent which, it was contrived between him and his brother, that he (the witness) being to dine with Mrs. Stout at his father Cowper's in Hatton Garden that

day, should take an opportunity to say that he (the prisoner) was gone to Deptford, and that the witness did mention it accordingly; whereupon Mrs. Stout, the deceased, rose up from dinner in confusion, and going into the yard, there swooned away; and they gave her such assistance as was usual in such cases.

He also said that his brother communicated the last letter to him on Friday before the last assizes, and thinking, as the case stood, it was better his brother should lie at his lodgings at Mr. Barefoot's, at the assizes, than at Mrs. Stout's, he did not write to Mr. Barefoot to dispose of the lodgings to another.

Then Mrs. *Barefoot* testified the prisoner lay at her house the night the accident happened, and came in a little after eleven by the town clock, and did not go out again that night.

The maid of the house also confirmed her mistress's evidence, and affirmed that the clock struck twelve after the prisoner was in bed.

Mr. *Cowper* proceeded in his defence, and said, he would explain that part of the evidence that was given by Sarah Walker, Mrs. Stout's maid, where she said her mistress ordered her to warm the bed, and he never contradicted it; and desired the Court would observe those words in the last letter, viz., "No inconvenience can attend your cohabiting with me;" and afterwards, "I will not fly for it: for, come life, come death, I am resolved;" from whence it might be conjectured what the dispute was between them at the time the maid mentioned; he thought it was not necessary she should be present at this debate, and therefore might not interrupt her mistress in the orders she gave; but as soon as the maid was gone, he offered these objections: he informed her by what accident he was obliged to lodge at Mr. Barefoot's, and that the family were sitting up for him; that his staying at her house under these circumstances would provoke the censure of town and country, and therefore he could not stay, whatever his inclinations were; but his reasons not prevailing, he was forced to decide the controversy, by going to his lodging—so that the maid might swear true when she said he did not contradict her mistress's orders.

He called witnesses to shew it was impossible he could be at the drowning of Mary Stout, because he went away from her house a quarter before eleven, and was at his inn, the Glove and Dolphin, before the clock struck eleven, and it would take up above half an hour to go from Mrs. Stout's to the place where she was drowned, and return to the Glove Inn. And, calling Elizabeth Spurr as a witness, she testified that he came into the Glove Inn just as the clock struck eleven, and stayed

there a quarter of an hour before he went to his lodgings. This evidence was confirmed by two other servants of the Glove Inn.

Sir *Thomas Lane* and Sir *William Ashurst* said that they had walked over the ground above mentioned, and it took them up above half-an-hour, at a usual walking pace.

Mrs. *Mince* was then called as a witness, to disprove what Sarah Walker had deposed, namely, that her mistress did not use to go out at nights.

Mrs. *Mince* testified that Sarah Walker told her, her mistress used to entertain company in the summer-house in the night-time, unknown to her mother; that she used to go out at nights, and take the key with her, and make her mother believe she was gone to bed; and that one time she went out at the garden window, when the garden door was locked, and bade her not sit up for her, she would come in at her own time; and what time she came she (the maid) said she did not know, for she was gone to bed.

The prisoner called Sir William Ashurst, Sir Thomas Lane, Mr. Cox, and Mr. Thompson, to his reputation, who all gave him a good character; and Mr. Cox said he had lived by him in Southwark eight or nine years, and knew him to be a person of integrity and worth, and all the neighbourhood coveted his company; that he took him to have as much honour and honesty as any gentleman whatever, and of all men he knew he would be the last man that he should suspect of such an act as this: he believed nothing in the world could move him to entertain the least thought of any thing so foul.

Here Mr. *Marson* entered upon his defence, and said:

Their business at Hertford was this: Mr. Ellis Stevens being Clerk of the Papers, and Mr. Rogers Steward of the King's Bench, were obliged to wait upon the Lord Chief Justice out of town, with the Marshal of the King's Bench; and on the Monday he went with them to the Lord Chief Justice's house in Lincoln's-Inn-Fields, from whence they all set out for Hertford; but he (Marson) being an attorney of the Borough Court, and having business there that day, when they came as far as Kingsland, returned back to Southwark, where he attended the court as usual, and about four set out again for Hertford; and on the way, at Waltham Cross, he met his acquaintance, Mr. Hanks, a clergyman, who had been to attend the Chief Justice, returning to London; but he prevailed on him to go back with him to Hertford, and they galloped every step of the way, because night was coming on, and it was about eight o'clock when they came to Hertford, and he might be in a sweat with

riding so hard, but not in such a sweat as the witness testified; that meeting with their friends Mr. Stevens, Mr. Rodgers, Mr. Rudkin, and other acquaintance of the Marshal's at the coffee-house, they went from thence to the Glove and Dolphin, where they stayed till about eleven; and from thence he and Mr. Stevens and Mr. Rogers went to Gurrey's, where they lodged, and drank three bottles of wine before they went to bed, and had some jocular conversation with their landlord Gurrey; he believed Mr. Stevens might ask him if he knew Mrs. Sarah Stout, and what sort of woman she was; and he believed he might say, my friend may be in with her; that Mr. Rogers also asked him (Marson) what money he had got that day? meaning at the Borough Court, and he answered, 50s.; to which Rogers replied, We have been here spending our money, I think you ought to treat us. As to the bundle mentioned, he knew of none, except a pair of sleeves and a neckcloth.

Mr. *Rogers*, in his defence, said:

They came down with the Marshal of the King's Bench, and, not thinking Mr. Marson would have come that day, had not provided a lodging for him; that they went from the coffee-house to the tavern, as Mr. Marson had related; and there they had some merry and open discourse of this gentlewoman, but he never saw her, or heard her name before she was mentioned there.

Mr. *Stevens* gave the same account of their going to Hertford.

Here one of the jurymen desired they might withdraw; but the judge told him they must make an end first.

Mr. *Jones* said, the friends of the deceased would call some witnesses to her reputation; and he believed the whole town could attest that she was a woman of a good reputation: indeed, the prisoners had produced some letters without a name; but, if they insisted on anything against her reputation, they must call witnesses.

Judge *Hatsel* answered, he believed nobody disputed that she might be a virtuous woman, and her brains might be turned by her passion, or some distemper. He then directed the jury.

The jury withdrawing for about half an hour, returned with their verdict, that neither Mr. Cowper nor any one of the other three prisoners were *Guilty;* and thereupon they were all discharged.

Mrs. Stout, the mother of the deceased, being still unappeased, procured an appeal of murder to be lodged against the verdict, at the suit of Henry Stout, the heir-at-law, a child ten years of age. Toller, the Under-Sheriff of Herts, having made no return to this writ, accounted

to the Court of King's Bench for his neglect, by stating that he had given the writ to the appellant, who said he had burnt it. For this the under-sheriff was fined one hundred marks. Mrs. Stout then petitioned the Lord Keeper for a new writ of appeal, but the time, a year and a day, having elapsed for suing out a writ, her petition was, of course, rejected.

Mr. Spencer Cowper was not prevented by the trial from attaining rank and repute, both in his profession and in Parliament. On his brother's elevation to the woolsack, he succeeded him in the representation of Beeralston, and sat afterwards for Truro; adhered with inflexibility to the Whig party, was a frequent and successful speaker, and one of the managers in the impeachments of Sacheverell in 1710, and of the rebel lords in 1716. On the accession of George I. he was appointed Attorney-General to the Prince of Wales; in 1717 Chief Justice of Chester; and in 1727 a Judge of the Common Pleas, retaining also, by the especial favour of the Crown, his former office, until his death in December, 1728. His second son, John, as above stated, became the father of William Cowper, the poet.

In a note to the State Trials, Mr. Spencer Cowper and Miss Stout are stated to have been the Mosco and Zara of Mrs. Manley's New Atalantis.

THE TRIAL OF MUNGO CAMPBELL FOR SHOOTING LORD EGLINTON.

THE unfortunate nobleman who was the victim in this melancholy affair, was Alexander Montgomerie, tenth Earl of Eglington, a peer distinguished for his abilities and virtue, who succeeded to the title in 1729, and who perished by the hand of Campbell the 25th October, 1769. The Earldom of Eglington is one of the oldest and the most eminent in Scotland. Its present representative, Archibald Hamilton, Earl of Eglington and Winton, is the thirteenth earl.

Mungo Campbell, who committed the act, was a descendant of the noble family of Argyle, and was born at Ayr, in Scotland, in the year 1721. His father, who was a merchant of eminence, had been mayor of the town, and a justice of peace; but, having twenty-four children, and meeting with many losses in his commercial connexions, it was impossible for him to make any adequate provision for his family; so that, on his death, the relations took care of the children, and educated them in the liberal manner which is customary in Scotland. Mungo was protected by an uncle, who gave him a good education; but this friend dying when the youth was about eighteen years of age, left him sixty pounds, and earnestly recommended him to the care of his other relations. The young man was a finished scholar; yet seemed averse to make choice of any of the learned professions. His attachment appeared to be to the military life, in which line many of his ancestors had gloriously distinguished themselves. He entered himself as a cadet in the royal regiment of Scotch Greys, then commanded by his relation, General Campbell, and served during two campaigns at his own expense, in the hope of gaining military preferment. After the battle of Dettingen, at which he assisted, he had an opportunity of being appointed quarter-master, if he could have raised one hundred pounds; but this place was bestowed on another person, while Campbell was making fruitless applications for the money. Thus disappointed of what he thought a reasonable expectation, he

quitted the army, and went into Scotland, where he arrived at the juncture when the rebels had quitted Scotland, in 1745. Lord Loudon then had the command of the Royal Highlanders, who exerted so much bravery in the suppression of the rebellion. Mr. Campbell being related to his lordship, fought under him with such bravery as did equal credit to his loyalty and courage.

Not long after the decisive battle of Culloden, Lord Loudon procured his kinsman to be appointed an officer of the excise; and prevailed on the commissioners to station him in the shire of Ayr, that he might have the happiness of residing near his friends and relations. In the discharge of this new duty, Mr. Campbell behaved with strict integrity to the Crown, yet with so much civility, as to conciliate the affections of all those with whom he had any transactions. He married when he was somewhat advanced in life; and so unexceptionable was his whole conduct, that all the nobility and gentry in the neighbourhood, the Earl of Eglington excepted, gave him permission to kill game on their estates. However, he was very moderate in the use of this indulgence, seldom shooting but with a view to gratify a friend with a present, hardly ever for his own emolument. He had a singular attachment to fishing; and a river in Lord Eglinton's estate affording the finest fish in the country, he would willingly have angled there; but his lordship was as strict with regard to his fish as his game.

Being one day in search of smugglers, and carrying his gun, he was crossing part of Lord Eglinton's estate, when a hare starting up, he shot her. His lordship hearing the report of a gun, and being informed that Campbell had fired it, sent a servant to command him to come to the house. Campbell obeyed, and was treated rather sharply by his lordship. The other apologized for his conduct, which he said arose from the sudden starting of the hare, and declared that he had no design of giving offence. A man named Bartleymore was among the servants of Lord Eglington, and was a favourite of his lordship; this man had dealt largely in contraband goods. Mr. Campbell, passing along the sea-shore, met Bartleymore with a cart, containing eighty gallons of rum, which he seized as contraband, and the rum was condemned, but the cart restored, as being the property of Lord Eglinton. Bartleymore was now so incensed against Campbell, that he contrived many tales to his disadvantage, and at length engaged his lordship's passion so far, that he conceived a more unfavourable opinion of him than he had hitherto done; while Campbell, conscious that he had only discharged his duty, paid little or no attention to the reports of his

lordship's enmity. About ten in the morning of the 24th of October, 1769, Campbell took his gun, and went out with another officer with a view to detect smugglers. The former took with him a license for shooting, which had been given him by Dr. Hunter, though they had no particular design of killing game. They now passed a small part of Lord Eglinton's estate, to reach the sea-shore, where they intended to walk. When they arrived at this spot it was near noon; and Lord Eglinton came up in his coach, attended by Mr. Wilson, a carpenter, who was working for him, and followed by four servants on horseback. On approaching the coast, his lordship met Bartleymore, who told him that there were some poachers at a distance. Mr. Wilson endeavoured to draw off his lordship's notice from such a business, but Bartleymore saying that Campbell was among the poachers, Lord Eglinton quitted his coach, and, mounting a led horse, rode to the spot, where he saw Campbell and the other officer, whose name was Brown. His lordship said, "Mr. Campbell, I did not expect to have found you so soon again on my grounds, after your promise, when you shot the hare." He then demanded Campbell's gun, which the latter declared he would not part with. Lord Eglinton now rode towards him, while Campbell retreated with his gun presented, desiring him to keep at a distance. Still, however, his lordship advanced, smiling, and said, "Are you going to shoot me?" Campbell replied, "I will, if you do not keep off."

Lord Eglinton now called to his servants to bring him a gun, which one of them took from the coach, and delivered it to another, to carry to their master. In the interim, Lord Eglinton, leading his horse, approached Mr. Campbell, whose gun he demanded; but the latter would not deliver it. The peer then quitted his horse's bridle, and continued advancing, while Campbell still retired, though in an irregular direction, and pointed his gun towards his pursuer. At length, Lord Eglinton came so near him, that Campbell said, "I beg your pardon, my lord, but I will not deliver my gun to any man living, therefore keep off, or I will certainly shoot you." At this instant, Bartleymore advancing, begged Campbell to deliver his gun to Lord Eglinton; but the latter answered, he would not, for he had a right to carry a gun. His lordship did not dispute his general right, but said, that he could not have any to carry it on his estate, without his permission. Campbell again begged pardon, and still continued retreating, but with his gun in his hand, and preparing to fire in his own defence. While he was thus walking backwards, his heel struck against a stone, and he fell, when he was about the distance of three yards from his pursuer. Lord Eglinton

observing him fall on his back, stepped forward as if he would have passed by Campbell's feet, which the latter observing, reared himself on his elbow, and lodged the contents of his piece in the left side of his lordship's body. At this critical juncture the servant above-mentioned brought the gun from the coach, and Campbell would have wrested it from his hands, but that Bartleymore came up just at the very moment; and at this moment Lord Eglinton, putting his hand to his wound, said, "I am killed."

A contest now ensued, during which Bartleymore repeatedly struck Campbell; which being observed by Lord Eglinton, he called out, "Do not use him ill." Campbell being secured was conducted to the wounded man, then lying on the ground, who said, "Mr. Campbell, I would not have shot you;" but Campbell made no answer. Lord Eglinton's seat was about three miles from the place where this fatal accident happened; and his servants put him into the carriage to convey him home. In the mean time Campbell's hands were tied behind, and he was conducted to the town of Saltcoats, the place of his former station as an exciseman. The persons who conducted him asked him several questions, the answers to which were afterwards adduced on his trial, as collateral evidence of his guilt. Among other things, he acknowledged that he would rather part with his life than his gun, and that sooner than have it taken from him, he would shoot any peer of the realm.

Lord Eglinton died, after languishing ten hours. Mr. Campbell was, on the following day, committed to the prison of Ayr, and the next month removed to Edinburgh, in preparation for his trial before the High Court of Justiciary; previous to which his case was discussed by counsel, and the following arguments were adduced in his favour:—

"First, That the gun went off by accident, and therefore it could be no more than casual homicide.

"Secondly, That supposing it had been fired with an intention to kill, yet the act was altogether justifiable, because of the violent provocation he had received; and he was doing no more than defending his life and property.

"Thirdly, It could not be murder, because it could not be supposed that Mr. Campbell had any malice against his Lordship, and the action itself was too sudden to admit of deliberation."

The counsel for the prosecution urged in answer—

"First, That malice was implied, in consequence of Campbell's presenting the gun to his Lordship, and telling him, that unless he kept off he would shoot him.

"Secondly, That there was no provocation given by the Earl besides words, and words must not be construed a provocation in law.

"Thirdly, The Earl had a right to seize his gun, in virtue of several acts of Parliament, which are the established laws of the land, to which every subject is obliged to be obedient."

After repeated debates between the lawyers of Scotland, a day was at length appointed for the trial, which commenced on the 27th of February, 1770, before the High Court of Justiciary; and the jury having found Mr. Campbell guilty, he was sentenced to death.

The Lord Justice Clerk, before he pronounced the solemn sentence, addressed himself to the convict, advising him to make the most devout preparations for death, as all hopes of pardon would be precluded, from the nature of his offence. Through the whole course of the trial the prisoner's behaviour was remarkable for calmness and serenity; and when it was ended he bowed to the court with the utmost composure, but said not a single word in extenuation of his crime,

On his return to the prison he was visited by several of his friends, among whom he behaved with apparently decent cheerfulness. After they had drunk several bottles of wine they left him, and he retired to his apartment, begging the favour of another visit from them on the following day; but in the morning, February 28, 1770, he was found dead, hanging to the end of a form, which he had set upright, having fastened a silk handkerchief round his neck.

Mr. Galt makes the sad fate of Lord Eglinton form a portion of the story contained in his "Annals of the Parish."

THE MANSLAUGHTER OF SIR CHARLES PYM.

THE Pyms, of Brymmore, in Somersetshire, were a very ancient and honorable house: their existence, as a family of condition, is recorded as far back as the reign of Edward IV., and their name is one of note in English history. It was made so by the famous representative of the race, in the seventeenth century—John Pym, the stern parliamentarian, who acted so great a part in the eventful drama, which ended with the overthrow of the monarchy, and the murder of the King.

John Pym's son was created a Baronet by Charles II. in 1663; and his grandson, the second Baronet, was the unfortunate Sir Charles Pym, the subject of this trial, with whose death in this pitiful squabble, terminated the male line of the Pym's of Brymmore.

This investigation presents merely the narrative of a fatal tavern brawl; but it is curious as giving an insight into the turbulent manners of the day, in London, just previous to the Revolution. The trial took place at the Old Bailey, on the 1st of June, 1688, and, as will be seen, King James's faithful supporter, Mr. Justice Allibone, was one of the presiding judges.

The prisoners, Rowland Walters, Wearing Bradshaw, and Ambrose Cave, gentlemen, were indicted for the murder of Sir Charles Pym, Baronet, by killing him with the thrust of a rapier.

The parties accused, as well as the other gentlemen engaged in the melancholy transaction, were persons of station and family: one of them, Ambrose Cave, was the third son of Sir Thomas Cave, Knt., the representative of a house still in existence, and one of the oldest in the realm. This Ambrose Cave eventually perished by violence, being assassinated by one Biron, an officer in the army.

The case was thus opened:—

Counsel for the King. My lords, and you gentlemen of the jury, I am here retained a counsel for the King, against the prisoners at the bar, who all three stand indicted for the murder of Sir Charles Pym, bart., in the parish of St. Nicholas Cole-abbey, by thrusting him through the body near the right pap, giving him a mortal wound, of which he then and there instantly died. The other two prisoners stand indicted for aiding, abetting, and assisting him the said Walters in the said murder.

Another *Counsel* for the King. My lords, this murder fell out on the fourth day of May last, after this manner, viz. Sir Charles Pym, one Mr. Mirriday, Mr. Neale, and Sir Thomas Middleton, and others, dined at the Swan Tavern upon Fish-street Hill; after they were come into the house they went up-stairs; after which the prisoners at the bar came into the house and took another room to dine of beef and other things. But one of Sir Charles's company desired to have a plate of it; upon which Mr. Cloudsley told them some gentlemen had bespoke it for dinner; but he said he would get them a plate of it, which was sent up and ordered to be reckoned into Mr. Walters the prisoner's bill. After dinner they drank their healths, and returned them thanks for their beef; and towards the evening, Sir Charles Pym and his friends came down-stairs, and met the prisoners at the bottom, and Mr. Cave asked them how they liked the beef that was sent up? Upon which, one in the company answered, and told them, they did not send it, for they had paid for it. Upon which, farther words arose, and Mr. Bradshaw drew his sword and fell upon Sir Charles Pym, but he got out into the street. After which, Mr. Walters came forth and plucked Sir Charles Pym by the arms, and forced him to fight with him, saying, here is my hand, and here is my sword; and as soon as he was in the street he received this mortal wound, and so fell down dead. After this, Mr. Walters took him by the nape of the neck, and dashed his head upon the ground, and cried out, damn you, you are dead: and said farther, let the sword alone in his body. My lord, this shall be proved to be done without any manner of provocation; and if so, I hope you, gentlemen of the jury, will find him guilty of wilful murder.

Clerk. Call Mr, Mirriday, Mr. Neale, Mr. Palms, and Mr. Bridges. (Who were sworn.)

Mr. Mirriday. My lord, on the 4th day of May last, on a Friday, Sir Charles Pym, myself, and these gentlemen here in court, came to dine at the Swan Tavern, in Old Fish-street. We asked for meat, and Mr. Cloudsley, the man of the house, told us we might have fish, for he had no meat but what was bespoke by Mr. Walters and his company. We

desired him to help us to a plate of it, if it might be got, which we had brought up-stairs; after dinner we drank the gentlemen's healths that sent it, and returned them thanks for it. A while after, Sir Thomas Middleton went away, and about an hour after that or thereabouts, Sir Charles Pym and the rest of us came down to go away; and when we were in the entry, Mr. Cave met us and asked Sir Charles how he liked the beef that was sent up; who answered, we did not know you sent it, for we have paid for it. Then the boy that kept the bar told us that he did not reckon it in the bill; upon which Mr. Cave seemed to take it ill: but, my lord, I cannot be positive whether Mr. Bradshaw and Mr. Palms were at any words. Then I took Mr. Cave to one side, into the entry, and he thought that I had a mind to fight him, but I did what I could to make an end of the quarrel. [Upon which the Court highly commended Mr. Mirriday.]

Court. This was in the entry, but where was Sir Charles Pym?

Mr. Mirriday. He was then in the entry.

Court. Where was Mr. Walters?

Mirriday. He was at the door, my lord; but I cannot swear positively to any particular passage as to the murder; but Mr. Walters called Sir Charles Pym rogue, and gave him very ill words, and I saw him take him by the neck and force his head downwards, and said, with an oath, he is dead, to the best of my remembrance, my lord, Then I took Sir Charles up in my arms and pulled the sword out of his body; and then Mr. Walters said, with an oath, let it stay in his body, or words to that effect.

Court. Was Mr. Cave or Mr. Bradshaw at the place where Sir Charles fell?

Mirriday. No, my lord, they were in the entry scuffling there.

Court. What came of Mr. Walters afterwards?

Mirriday. My lord, he stayed a little, till I had pulled the sword out of his body, and then he ran away.

Court. Did they draw their swords in the entry?

Mirriday. I cannot tell that.

Court. Did you see them draw their swords?

Mirriday. I cannot say Sir Charles Pym's sword was drawn, but I saw Mr. Walters draw his sword in the street.

Court. Do you know whether Mr. Walters was wounded or no?

Mirriday. I do not know that, for I did not see the wound given.

Court. Mr. Walters, will you ask him any questions?

Walters. Yes, my lord: Mr. Mirriday, what did you say to Sir Charles Pym in the fishmonger's shop? Did you not say, go and fight him, and I will be your second?

Mirriday. My lord, I do not remember one word of that.

Court. Mr. Mirriday, were you in any fishmonger's shop?

Mirriday. Yes, my lord, I was there; but I do not remember one word between Mr. Walters and Sir Charles, and, as I hope for salvation, I said no such thing; and that 's all I have to say.

Clerk. Cryer, call Mr. Neale.

Mr. Neale. My lord, I went and met with these gentlemen that dined with us at the aforesaid tavern, and we had fish and two beef marrow-bones and a plate of beef for dinner; and when we came down to go away, these gentlemen met us, and said, with an oath, how did you like the beef? which raised a quarrel among us; but immediately, after I thought it was all over, I saw Mr. Walters run Sir Charles Pym through.

Court. Was his sword drawn?

Neale. Yes, both of their swords were drawn.

Court. Where was Mr. Bradshaw?

Neale. I cannot tell where he was directly: but, my lord, I heard Sir Charles Pym say nothing to Mr. Walters.

Clerk. Cryer, call Mr. Palms.

Palms. My lord, after the reckoning was paid, we came down-stairs and called for a coach, and because it rained there was none to be had, and these gentlemen followed us into the entry, and so words to the same purpose as aforesaid passed between them; after which I met Mr. Bradshaw, and we fell out in the fishmonger's shop.

Court. Who began?

Palms. I know not, I cannot remember that.

Court. Were you not in drink?

Palms. My lord, we drank nine or ten bottles among six of us; after which Mr. Bradshaw and I drew our swords, and then Mr. Mirriday came and took him away from me, into the entry, and in the mean time, while we were talking in the entry, the business was done.

Court. Were your swords put up again?

Palms. I had put up mine.

Counsel for the King. Did you take notice of what passed between Mr. Walters and Sir Charles Pym?

Palms. I heard nothing of high words.

Court. Yes, yes, it was all about the beef.

Clerk. Cryer, call for Mr. Presland, the bar-keeper.

Presland. My lord, I made the bill for the reckoning.

Court. Did you put the beef into the bill?

Presland. No, I did not; when they came down-stairs, the coach was

fetched for them, viz., for Sir Charles Pym and his company, and the reckoning was paid. When Sir Charles Pym and the rest of his company came down into the entry, Mr. Walters came out of the room, &c., and I heard them argue about their dinner, and they came to me, and asked me what was to pay for beef, and I told them nothing.

Court. Did you see the man killed?

Presland. My lord, I did not see him killed, not I.

Court. Who was it that quarrelled with the coachman?

Presland. My lord, Mr. Neale quarrelled with the coachman about his staying: the coachman refused going with him, because his horses were hot.

Clerk. Cryer, call Mr. Brummidge.

Brummidge. My lord, between eleven and twelve o'clock in the morning, on the 4th of May last, Sir Charles Pym came to Mr. Cloudsley's house in a coach, and asked him what he might have for dinner; who told him that he might have a mullet and some smelts, and I sold a mullet to Mr. Cloudsley; so Sir Charles went to the Exchange, and I saw no more of him till I saw him killed. While I was in the house, came in one Mr. Allen and others, to inquire for Sir Charles Pym, and Mr. Cloudsley told them that he had bespoke a dinner, viz., a mullet and some smelts, and was gone to the Exchange; but one of the gentlemen desired a bit of the beef that was at the fire, so Mr. Cloudsley said he would get a plate for him. So I went to the door and the coachman came, and his horses being hot, he desired to go away because it rained; but Mr. Neale put his foot-boy into the coach, and the coachman after pulled his boy out of the coach and drove away. And after that, I saw Mr. Cave and others come to the door, and jostled each other into the next shop, and were at very high words; and so afterwards they went into the entry again, and Sir Charles Pym and Mr. Walters came out without the door, the latter of which said, "Here is my hand, and here is my sword;" but they returned both in again into the tavern, and within two minutes came out again, and I saw Mr. Walters thrust Sir Charles Pym through his back.

Court. Did you see him do anything to him after he was down?

Brummidge. No, my lord, I did not.

Court. Did you not say that Walters went over the kennel, and drew his sword, and stood upon his guard; and then you say, that you saw Sir Charles Pym come out with his sword drawn; was his sword drawn?

Brummidge. I did not see him draw it; but it was drawn.

Court. Where did he receive his wound?

Brummidge. Within a foot of the kennel; I was but a little way off, but I did not see him beat his head against the ground.

Clerk. Cryer, call Mr. Fletcher.

Fletcher. My lord, on Friday, in the evening on the 4th of May, I was going by the tavern door about seven o'clock at night, and I heard a noise and a talking of going to the other end of the town to be merry: and turning myself back to hearken further, I saw Mr. Walters come out of the door and draw his sword, and Sir Charles Pym came out and drew his sword; and presently Mr. Walters's sword was through Sir Charles Pym's body almost a foot; and he fell down crinkling immediately; and when he was down, I saw Mr. Walters hit him in the kennel, and take him by the nape of the neck, and after cried,with an oath, let the sword stick in his body; and afterwards I saw Mr. Mirriday pull the sword out of his body.

Court. Did you see Mr. Bradshaw there when Sir Charles fell?

Fletcher. No, my lord I saw none there but Mr. Walters and Sir Charles, they were out of doors, and the rest were in the entry.

Mary White and Sarah Webb were called, who could give little or no evidence as to matter of fact, as concerning the death of Sir Charles; and being timorous, could not see what they might have seen.

Clerk. Cryer, call Mr. Allen.

Allen. I know but very little of the matter, but that there was a plate of beef sent up to us, but we knew not from whence it came, till afterwards the drawer brought us word that the gentlemen below had sent it up; after which, we drank their healths and returned them thanks for it. After which, I went to the coffee-house hard by, and sat about half an hour, and presently heard a cry of murder, and I came down and saw Sir Charles Pym lying with a wound in his body, and another in his head, but I did not know who it was, not then; but I asked who did this business, and exhorted the people to take them as soon as they could.

Court. I think you said that Mr. Bradshaw's sword was drawn?

Allen. Yes, it was, but I believe that he did not know that Sir Charles Pym was killed.

Mrs. Sheepwash was called, but could depose nothing material.

Court. Mr. Walters, you have been here indicted together with Mr. Bradshaw and Mr. Cave, for the murder of Sir Charles Pym, knight, and bart., you have heard what charge hath been laid against you, which hath been a very strong one, and now it behoves you to make your defence as well as you can.

Walters. My lord, I was no way the occasion of the quarrel: when I came thither, I asked for some meat, and having not eaten all the day before, we had a piece of beef, of which Sir Charles Pym and his company had some, who afterwards drank our healths, as I was informed. For my part, my lord I, never saw the gentleman before in my days: my lord, I am very sorry it should be my misfortune to kill him in the quarrel. Sir Charles Pym asked me, saying, with an oath, "Sir, what have you to do to meddle?" I went presently, my lord, to a fishmonger's, where Mr. Mirriday was, and Sir Charles Pym came, and Mr. Mirriday said to him, Sir Charles, "Damn you, Sir, go and fight him, and I will be your second." And presently they came upon me, and I drew my sword in my own defence, and he ran me eight inches into the thigh, and at the same pass, I had the misfortune, my lord, to run him into the body.

Court. Would you ask Mr. Mirriday any questions?

Walters. Yes, my lord. Mr. Mirriday, did you see me strike Sir Charles's head upon the ground?

Mirriday. No, Sir, I did not see that; neither did I say any such thing in the fishmonger's shop, as to bid Sir Charles fight you.

Clerk. Cryer, call Matthew Perin.

Perin. My lord, all that I saw of the business was, that when the coachman was called to the door, Mr. Neale came and threatened him if he did not stay; then Mr. Cave and Mr. Bradshaw were in the entry, and I heard them discourse about beef; and some of them said, you give us beef and make us pay for it; and there was answer made, they were rascals that said so, for they did not. There was one of the gentlemen in our shop hearing of it, said, let me come to him, I will fight him.

Court. Do you know the man?

Perin. No, I do not know who it was.

Walters. I was wounded at the same time, my lord.

Court. That is admitted of.

Walters. Let him be asked whether I beat the head against the ground.

Perin. No, my lord, I did not see him do that.

Court. He had a wound, the question is how he came by it; whether he might not fall upon it himself, it was a slanting wound?

Walters. Pray, my lord, let Sir Charles's sword be seen, all blood. [But that gave no satisfaction on either side.]

Court. Mr. Bradshaw, what have you to say for yourself?

Mr. Bradshaw. My lord, I was there, but I know nothing of the death of Sir Charles Pym, nor how he came by it; there were some words arose amongst us, and I desired them to cease, for fear a farther quarrel should ensue upon it.

Court. Mr. Cave, what have you to say?

Mr. Cave. I know no more of the matter than this gentleman saith: I saw not Sir Charles Pym killed.

Clerk. Cryer, make proclamation.

Cryer. All people are commanded to keep silence, upon pain of imprisonment.

Then Mr. Baron Jenner summed up the evidence as followeth:—

Baron Jenner. Gentlemen of the jury, you have three persons indicted, viz. Mr. Walters, Mr. Bradshaw, and Mr. Cave, for murdering Sir Charles Pym, bart., and have had several witnesses called for the King, against the prisoners at the bar: the first of which was Mr. Mirriday, and he gives you this account, and it is all that each and every one gives, and it agrees on all sides; and he tells you, that all those gentlemen were to dine at Mr. Cloudsley's, at the Swan Tavern in Old Fish Street; and, that they were there at dinner, it is very plainly proved. And being there, it seems that some of those gentlemen had bespoke a fish dinner, some flesh, and had some—viz. a plate of beef. And he tells you, also, that when dinner was over, some words did arise concerning the reckoning, and that one of the companies were got downstairs in the entry, where a further quarrel did arise. Mr. Mirriday tells you further, that Mr. Bradshaw and he quarrelled, so there was a scuffle in the entry; after which, things were pretty well quieted there; in come Mr. Walters and Sir Charles Pym, and while Mr. Mirriday was securing the first quarrel, they, viz. Sir Charles Pym and Mr. Walters, were got out at the door, and Sir Charles was stooping down, and Mr. Walters was pushing upon his neck and throwing him down.

So said Mr. Mirriday; and when he went to take the sword out of his body, he saw him a dying man.

The next evidence was Mr. Neale, and he observes to you, that one of the gentlemen did say, that the quarrel was not intended against them; and he gives an account of the story, how that it was about the beef; how that Sir Charles was run through by Walters, but he did not see him knock his head against the ground.

Mr. Palms gives the like account, and saith,—that whilst they were a scuffling in the entry, Sir Charles was killed at the door.

The next evidence is the drawer, who tells you of a squabble that Mr. Neale had with the coachman at the door, and how that there was left four of the gentlemen behind, and that the coachman was unwilling to wait, because it rained, his horses being hot they might catch cold; whereupon, he put his footboy into the coach, and threatened the coachman if he went away: this was before they fell out about the meat.

The next evidence was one Mr. Brummidge, the fishmonger; he gives the same account, how that a quarrel was amongst them, and how that Mr. Walters was on one side of the kennel, and Sir Charles Pym on the other side, and there they stood with their swords drawn; and as soon as they came close, they wounded each other, and Sir Charles Pym was killed; but he did not see his head knocked against the ground.

Comes Fletcher, my Lord Mayor's officer, and he tells you, that he was going by the door home into Bread Street, and he sees a man that was wounded stooping down; and he swears that Mr. Walters took him by the nape of his neck, and knocked his head against the ground, and heard him swear, let the sword stick in him. Sarah Webb, and another woman, speak it to be in the like manner; and one of them talks of Mr. Walters's pulling Sir Charles Pym out of the entry before he would come out.

Last of all, gentlemen, here was Mr. Allen, one of their company, who went away to the coffee-house, and hearing murder cried out, he came and found Sir Charles Pym killed, and quite dead. This, gentlemen, is the evidence that you have heard, as near as I can give it you.

Now, for the prisoner, Mr. Walters, he would have you believe as if Sir Charles had struck him before he drew his sword; but he has not proved it: likewise speaks of Mr. Fletcher, but he does not remember that Sir Charles Pym struck him before he drew: but so it was, gentlemen, there was a quarrel, in which that honorable and worthy gentleman, Sir Charles Pym, lost his life.

Now, for Mr. Bradshaw, he confesseth, that there was a quarrel; but he saith, that he did not know when or how Sir Charles Pym was killed; and for Mr. Cave, I do not find anything objected against him, nor either of them.

Now, gentlemen, I must tell you what the law is in this case: first of all, to begin with Mr. Walters, so as it fares with Mr. Walters, so you may be guided to deal with the other two. Now it hath not been made appear, by any of the evidence that you have heard, that there was any premeditated malice between them, for they were never in company be-

fore, and knew not each other; so that there could be no manner of malice from him in particular.

The next step, gentlemen, is, here is nothing that can impute a general malice upon Mr. Walters; for if I had no design to kill a man, and kill another with whom I do not quarrel, that cannot be any premeditated malice; but I rather think that there was a little heat of wine amongst them: and this whole action was carried on by nothing else but by a hot and sudden frolic; and I am very sorry that it should fall upon such a worthy gentleman as he was. And, if there was no malice premeditated, then he can be found guilty of nothing but manslaughter; and, as for the other two, they must be totally acquitted. If I have erred in the summing up of these evidences, or mistaken myself in any point, here are my brothers to help me.

Then the gentlemen of the jury withdrew for about the space of half an hour, and returned into court upon a scruple of conscience; one amongst them spoke to the court as followeth:—

Juryman. My lord, we are not satisfied in our consciences concerning the death of Sir Charles Pym; we find in it malice forethought; because after he had run the sword through his body, he was not satisfied with that, but must knock his head against the ground; so we do take it, that the said Sir Charles Pym was maliciously murdered.

Justice Allibone. Gentlemen of the jury, I shall endeavour to direct you in this case, and tell you what the law saith,—That it cannot reach a man's life where no prepense malice is proved; that there is none proved, appears very plain to me, and I hope also to you, because it hath been proved, that those gentlemen, viz. the prisoners at the bar, and the deceased, had never been in company before. Gentlemen, you are upon your oaths to serve the King as jurymen; and I, as a judge, am upon my oath to try the cause as well on the behalf of the living as the dead. So that upon the whole matter, gentlemen, this can be called nothing else but a storm, an ungoverned storm, that such men are subject to; so that it does not reach precedent malice, but subsequent passion; which sad passion was continued to that height, that Sir Charles Pym, in the midst of it, lost his life.

Then the jury went out again for about a quarter of an hour; and, returning, brought in Mr. Walters guilty of manslaughter; but the other two were acquitted.

PHILIP STANSFIELD, THE PARRICIDE.

THIS grim Scottish story of the latter part of the seventeenth century is marked in all its features with a wonderfully deep and significant impression of the country and the time to which it belongs. New Milns (now Amisfield) appears to have been a place in the neighbourhood of Haddington, in East Lothian, which was so called from a manufactory of broad-cloth established there not long before the date of the events about to be related.

Sir James Stansfield held the rank of Colonel in the Parliamentary army. After Cromwell's victory at Dunbar, he went to Scotland, and set up the woollen manufactory at New Milns, under the patronage of the protecorate. At the Restoration, parliament granted certain annuities and privileges to Colonel Stansfield, on whom Charles II. conferred the honour of knighthood. His prospects were, however, soon blasted; for in 1687, he was found murdered, as was supposed, by his eldest son Philip, whom he had disinherited for his debauchery. This unfortunate man was brought up for trial, February, 6, 1688, when

The indictment set forth:

"That whereas by the laws of this kingdom, the speaking of malicious and seditious words, to the disdain of his Majesty's person and contempt of his royal government: such as drinking, or wishing confusion to his Majesty, is high treason. And the cursing, beating, invading, or assassinating of a parent, is punishable with death, &c. And that murder under trust, is punishable as treason. Nevertheless, the said Philip Stansfield, shaking off the fear of God, &c. did upon the 1st, 2d, or 3d, or one or other of the days of the months of June, July, August, or September last, in the kitchen of New-Milns, as a most villainous and avowed traitor, begin a health to the confusion of his Majesty, his native sovereign; and did cause others, in his company, to drink the same.

"That although his father had given him a liberal education, he had taken ill courses, and had been detained prisoner in the Marshalsea, in Southwark, and in the public prisons of Antwerp, Orleans, and other places; from whence his said father had released him: and that notwithstanding, he fell to his debauched and villainous courses again. Whereupon, his father signifying his intention to disinherit him, and settle his estate upon John Stansfield his second son, the said Philip Stansfield did declare he would cut his father's throat: particularly, that upon the 1st, 2d, or 3d, or one or other of the days of the months of January, February, March, and remaining months of January, February, March, and remaining months of the year of God, 1680, 1681, 1682, 1683, and 1684 years, or one or other of them; he did attempt to assassinate his father by pursuing him in the highway, &c. and firing pistols upon him: which the said Sir James, his father, had declared to several persons of honour in his lifetime.

"And that upon the —— day of November last, the said Sir James Stansfield, coming from Edinburgh to his house at New Milns, and going into his chamber to rest about ten o'clock at night, and being alone in the room, under the credit, trust, and assurance of the said Philip, his son, and his own servants within his family: the said Philip did consult with one George Tomson, and divers other persons, how to murder him: and that accordingly, they did murder and strangle him in his bed-chamber; and in the dead of the night carried him from the said room, and threw him into a pond near the house. That the next morning when the body was found, the said Philip caused it to be buried in haste, and refused to stay till his friends and physicians viewed it. That the body being taken up again by authority, and inspected by surgeons, it appeared to have been strangled and not drowned. And that his nearest relations being required to lift the corpse into the coffin after it had been inspected; upon the said Philip Stansfield touching of it (according to God's usual method of discovering murder, says the framer of the indictment) it bled afresh upon the said Philip, and that thereupon he let the body fall, and fled from it in the greatest consternation, crying Lord have mercy upon me.

"And that the said Philip being found by an assize to be actor, art and part of the aforesaid crimes, one or other of them, he ought to be punished, for the treasonable crimes above specified, with forfeiture of life, lands, and goods: and for the other crimes above mentioned capitally, and with the pains of death, and confiscation of moveables; to the terror and example of others, &c."

The trial of Philip Stansfield took place at Edinburgh, before the supreme criminal court, called the High Court of Justiciary; the judges on the bench being George Earl of Linlithgow, who held the long sinecure and now abolished office of Lord Justice General, and the Hon. Sir John Lockhart of Castlehill, Sir David Balfour of Forret, Sir Roger Hodge (or Hog) of Harcase, and John Murray of Drumcairne, styled Commissioners or Lords of Justiciary. The then second, and now presiding, judge of the court, the Lord Justice Clerk, does not appear to have been present.

The first day, Monday, the 6th of February, 1688, was occupied in arguing and considering what is called in the Scottish law the relevancy of the facts libelled or charged, that is to say, their sufficiency to infer the conclusion affirmed in the indictment or criminal letters. The decision of this purely legal question belongs solely to the judges of the court.

The pursuers, or counsel, who appeared for the prosecution, were Sir John Dalrymple, Lord Advocate (the same who afterwards became Secretary of State and first Earl of Stair), and Sir George Mackenzie, the well-known writer on Scottish law and antiquities. The counsel for the prisoner (or pannel, as called in Scotland), styled procurators in defence, were Sir David Thoirs, Sir Patrick Hume, Mr. William Moniepenny, and Mr. William Dundas. The three last are names that have continued to be eminent in connexion with the bar and courts of Scotland down to our own day.

Sir Patrick Hume alleged in the prisoner's defence, that as to the drinking confusion to the King it was an improbable calumny, he having upon all occasions testified his loyalty; particularly in Monmouth's rebellion, when he entered himself a volunteer in the Earl of Dunbarton's regiment; where he continued till the rebels were defeated.

As to his firing pistols at his father in 1683 and 1684, it might be proved there was an entire friendship between him and his father at that time: but if those facts were true, as they had been pardoned by the act of indemnity, so they could not be made use of as instruments now, to infer that he was guilty of this murder.

That as to the corpse bleeding when the prisoner touched it, it was a superstitious observation, founded neither upon law or reason: and he quoted *Carprovius* and *Mattheus de Criminibus* to be of the same opinion: and said, the bleeding was occasioned by the moving of the body, and the incision the surgeons had made; and that other people

touching the body at the same time, it could no more be ascribed to prisoner than to them.

That the other circumstances laid in the indictment were but idle stories, for that it could be proved the prisoner went to bed in his own chamber the night his father was murdered, and did not stir out of his bed till called up by his father's servant next morning.

His Majesty's advocate replied, that the drinking or wishing confusion to his Majesty (which fact was not expressly controverted) did clearly infer treason, and came within the intention of the act. All speeches in disdain and contempt of his Majesty (as this was) being by that act made so. And although the prisoner having engaged voluntarily in his Majesty's service; it was urged that these words could not be spoken deliberately and maliciously, yet they being proved to be reiterated, and the prisoner forcing others to drink the same health; the crime once committed could not be wiped off by any speeches or actions afterwards, and that the prisoner had a due sense of the importance of the words, having conjured the company to secresy; and threatened to beat and brain them that should discover what they had done.

Whereas it is said all crimes before the year 1685, are pardoned by the indemnity, it is answered, the crime of cursing of parents was not included in a general act of indemnity; for the words of the act against curses of parents being, that the cursers of parents shall be put to death without mercy, there required a special remission in the act of indemnity, especially where private persons are more interested than the public, as here the parent is: and also for that the indemnity extended only to those who were under the degree of an heritor, wodsetter, or burgess, which the prisoner could not pretend to be.

Although it is said, the son threatening to cut his father's throat was but a remote circumstance, and that it could not be concluded from thence that he had actually murdered him; yet he thought it such a circumstance, that unless the prisoner could shew that some other person killed him, he must be reputed the murderer.

Here the King's advocate opened the evidence, and then went on. That as the body bleeding, although several persons touched it, none of their hands were besmeared with blood but the prisoner's; and that the body having lain two days in the grave in a cold season, the blood must naturally be congealed. That the lifting about the body, and even the incision that was made, causing no such effusion before, but only of some water or gore, and should upon the prisoner's first touching begin to

bleed afresh; he must ascribe it to the wonderful Providence of God, who in this manner discovers murder; especially since no natural reason could be assigned for it: and that the horrible impressions it made on the prisoner, notwithstanding his resolution to the contrary, might be urged as another argument of his guilt.

And that although Sir James Stansfield was melancholy and frantic in the year 1679, yet, he was known to have recovered his health, and to be of a composed sedate temper of mind for several years past, and so capable of business, as to be intrusted by the wisest men in the kingdom; nor at the time of his death had any sickness or returning frenzy upon him: besides, it appearing plainly that he was strangled, it could not be presumed that he afterwards walked out and drowned himself. And as to the prisoner's surrendering himself, it was indeed suitable to the rest of his imprudence, and he might imagine by that means to make the world believe he was innocent.

The court at Edinburgh, the 7th February, 1688, met, and the assize consisting of fifteen merchants and tradesmen, being sworn without any challenge or exception to any of them, his Majesty's advocate produced his witnesses.

John Robertson, servant to the deceased, deposed, that he saw the prisoner a little before harvest last in the kitchen at New Milns, drink confusion to the Pope, Antichrist, the Chancellor, and the King, and commanded the deponent to drink it on his knees, and that the prisoner was not drunk at that time: and, that the deponent saying it was treason, the prisoner answered, You dog, what are you concerned, you do not understand to whom you speak?

Agnes Bruce deposed, that a little before harvest last, in the kitchen at New Milns, she saw the prisoner drink confusion to the Pope and the King, and made Samuel Spofforth drink the same on his knees; and it being talked of in the house about a week after, he said to this deponent, God —— him, if he knew who divulged it, he would be their death.

John Robertson aforesaid, further deposed, that since harvest last, he heard the prisoner wish the devil might take his father. And at another time, the deponent telling the prisoner he was going to such a place with his father, he prayed the devil might let none of them come back, either horse or man. And on other occasions he had heard the prisoner say of his father, the devil damn him, the devil rive him, &c. and said, his father girned upon him like a sheep's head in a tongs.

William Scot deposed, he heard the prisoner wish the devil might take his father.

Agnes Bruce, above said; further deposed, that she had often heard the prisoner vow and swear he would kill any person that offended him. That he conversed much with Janet Johnston, George Tomson and his wife (charged with being concerned in this murder) and used, after supper at his father's, to go to these persons. That she has frequently heard the prisoner curse his father, and express his hatred and abhorrence of him, and say, he had hated his father these seven years; and this in his mother's presence. That the Friday before Sir James's death, Janet Johnston was a considerable time with the prisoner in his chamber. That she thought Sir James not so merry as usual the night before his death. That on the Saturday night when Sir James came home, he went to his lady's chamber, where he did not stay a quarter of an hour; and that his lady fell a quarrelling with him for going to another house before he came there. That the next morning when Sir James was missed, the deponent went into his chamber to make a fire, and found the bed in better order than usual, and the candle at the bed's feet, which used to be at the head. That the deponent desiring the body might be brought up to the chamber, the prisoner answered, it should not enter there, for he had died more like a beast than a man; and that it was brought to a cellar within the close, where was very little light. That she heard the prisoner cry and lament when his father's body was found, but saw no tears. That he would have forced his father's chamber-door open, but the key being found he entered, and took the gold and money out of his pocket, and then searched the cabinet; that, within the hour after his father was brought from the water he got the buckles of his shoes, and put them in his own. That a short time before Sir James died, his lady having fallen into a swoon, and afterwards telling the prisoner he was likely in a short time to lose his mother, he answered in the deponent's hearing, that his father should be dead first. That two nights after Sir James's death, the lady told this deponent that she had heard the prisoner had vowed his brother's death, and little less as to his father, upon his hearing Sir James was about to settle his estate upon his brother: and that the lady renewed the same expression to this deponent at Edinburgh, and added, "What if they should put her bairn in prison?"

Archibald Dunbar, merchant, deposed, that, having met the deceased at Cutler, and being with him and some other company in a room, Sir James was discoursing of his son's undutifulness, and they heard a shot

at the outer door, and soon after another; and some of the company offering to go down, Sir James dissuaded them, and said, it might be his distracted son Philip; and they asking why he should fear any harm from him, he told them that as he was going to Lothian Burn, he shot two pistols at him, and that if he had not been better mounted than his son he would have killed him: and one saying, there could not be ball in them, Sir James said he had too many proofs of his son's unnatural behaviour to him. That, Sir James went not to bed, but the deponent sat up with him that night, and conveyed him to Edinburgh.

Mr. William Clark, advocate, deposed, that Sir James ordering him to draw a settlement, in order to dispose of his estate to his son John, the deponent dissuaded him from it, saying, his son Philip might be reclaimed: but Sir James answered, he had no expectation of it, for when he was at the Lead Hills there was a pistol shot at him, which he was sure came from his son Philip.

The next witness, *Mr. John Bell*, minister of the gospel, aged forty years, having been sworn, and also *solutus*, or released (apparently from some restraint against giving his testimony held to be imposed by his clerical character), was not examined, but produced the following written declaration of what he knew relating to the murder, which he declared to be the truth, as he should answer to God. It is declared, in the title, to have been emitted "in answer to several interrogatories proposed by his Majesty's Advocate before the Lords of the Committee of the Council;" and will be found to be a very curious and characteristic effusion—characteristic of the time as well as of the individual.

"*Imprimis*, I declare that, at Sir James Stansfield's earnest desire, I went from this town with him to New Milns; and that by the way I discerned nothing but sound judgment and reason in Sir James, for his discourse was both rational and pertinent, and that both at supper that night, and after supper, his discourse was rational, and his carriage most civil, and was pleased to accompany me to my chamber, and sat with me there (as I supposed) until it was about ten o'clock at night, discoursing pertinently, and to good purpose.

"2. I declare that, having slept but little, I was awakened in fear by a cry (as I supposed), and being waking, I heard for a time a great din, and confused noise of several voices, and persons sometimes walking, which affrighted me (*supposing them to be evil wicked spirits*); and I apprehended the voices to be near the chamber door sometimes, or in the transe [passage] or stairs, and sometimes below, which put me to arise in

the night, and bolt the chamber door further, and to recommend myself, by prayer, for protection and preservation, to the majesty of God; and having gone again to bed, I heard these voices continue, but more laigh [low], till within a little time they came about to the chamber window, and then I heard the voices as high as before, which increased my fear, and made me rise again to look over the window, to see whether they were men or women; but the window would not come up for me, which window looked to the garden and water, whither the voices went on till I heard them no more; only towards the morning I heard walking on the stairs and in the transe above that chamber where I was lying.

"3. I declare that I told the woman who put on my fire in my chamber that Sabbath morning, that I had rested little that night, through din I heard; *and that I was sure there were evil spirits about that house that night.*

"4. I declare that, about an hour after day, Philip came to my chamber, and asked if Sir James came to that chamber this morning, and told me that he had been seeking him upon the banks of the water; unto which I replied, I have not seen your father—but what mean ye by the banks of the water? Whereupon Philip, without answering, went down stairs immediately, and within a little time I followed, to see what he meaned; and having gone without the gate, and up the causey that leads to the manufactory, one came running, and said, they had found Sir James lying in the water: whereupon I was stricken with such astonishment, fear, and trembling, that I could go no further, but returned trembling to the chamber; and, having sitten down on the bedside, I said to an honest man who accompanied me, This is the saddest day that ever I saw—my affrightment in the night was terrifying to me, but this is more grievous. And, having gone to an honest man's house, where I took horse that morning, I said, If the majesty of God did ever permit the devil and his instruments to do an honest man wrong, then Sir James Stansfield has received wrong this last night, which the Lord will discover in his good time.

"5. I declare that, after my return from Moreham that Sabbath evening, Philip told me that he had advertised several friends at Edinburgh, and that he was expecting the Commissary amongst others that night: whereupon I commended what he had done, in sending for such intelligent persons, and that for two reasons, (1.) because it was necessary his father's body should be sighted; (2) because they could advise him about his burial. Philip answered, that he was seen by these that took him

out of the water. But I replied, that was not enough, for the murder committed was either a violent murder, or a distracted murder; and having described what a distracted murder was (upon Philip's relating some distemper his father had been in some years formerly), I said, that I conceived no person could come to such a high act of frenzy, to do such a thing, but it would be known on him many hours, yea, some days before; but I could testify that Sir James was in his right reason at ten o'clock; wherefore I inclined to think *it was a violent murder committed by wicked spirits;* and so advised that the corpse might be sighted by the nearest physicians and friends, and the honest men living in that town. Nevertheless, they went and buried Sir James that night, without either acquainting me or several honest persons who lived in the place. Mr. John Bell depones his above-written declaration is truth, as he shall answer to God."

Evil spirits, in this worthy clergyman's notion, it will be seen, were existences quite as substantial as any of flesh and blood; and, indeed, this was in that age the almost universal faith of his countrymen. How undoubting was the conviction in which he rested that the noise he heard was made by supernatural agents, notwithstanding a momentary impression that they might possibly be men or women, may be inferred from his conduct in never attempting to alarm the household, which he would certainly have done if he had believed that the nocturnal disturbers were of his own species. He contents himself with a recourse to prayer, as the only available weapon in the circumstances. Touching the minutiæ of form, we may remark, that this declaration of Mr. Bell's is subscribed both by himself and by the Earl of Linlithgow, the presiding judge; whereas, in other cases, the depositions are only subscribed by Linlithgow, when the witness cannot write himself.

The report of the evidence for the prosecution proceeds as follows:—

Sir Robert Sinclair, of Steinstoun, deposed, that Sir James Stansfield, being at the deponent's house, told the deponent that he regretted that his son Philip had mis-spent his time and money; and when he came home from London, he was ashamed to tell how he came on him in his chamber at London.

James Murehead, chirurgeon, deposed, that after he and James Craufurd, chirurgeon, had opened the corpse about the neck, and sewed it up again, and removed the foul linen, and put on again the clean linens, in doing whereof they were obliged to shake the body to and fro, and move the head back and forward, the deponent desired that the friends might

lift the body, and put it in the coffin, and that the pannel, having come and lift up the head, he did let it fall upon the table suddenly, and that it made a considerable noise at falling, and that the pannel retired back quickly, rubbing his hands on his breast, and crying, O God! O God! and some such other words; and that the deponent, being astonished thereat, looked to the corpse, and, as the pannel did take away his hand from it, did see it darting out blood through the linen from the left side of the neck which the pannel touched; and that the deponent was amazed at the sight, partly through the darting out of the blood, and partly through the apprehension he had of the murder. He saw nobody touch the left side of the defunct's head, the time it bled, but the pannel. As soon as the deponent recovered out of his amazement, he cried to the boy to give the pannel some treacle water, which he did; but he did not see Philip, the pannel, return again to the body of his father. When the deponent and the other chirurgeon were putting on the clean linens, and stirring and moving the head and craig [throat], he saw no blood at all.

Besides this testimony to the supernatural fact of the bleeding of the dead body at the touch of the murderer, Murehead had previously, in conjunction with another Edinburgh surgeon, Mr. James Craufurd, made a somewhat more professional report of their inspection of the corpse in Moreham Church, on Friday the 30th of November, after it had been disinterred.

The College of Physicians at Edinburgh, having, at the desire of his Majesty's advocate, considered the report of the surgeons, delivered their opinions, that there were sufficient grounds to believe the said Sir James Stansfield was strangled and not drowned.

The next witness called was *Umphray* (or Humphrey) *Spurway*, who is described as an Englishman, of the age of fifty years, and who appears to have been the proprietor or manager of the cloth manufactory. It is, perhaps, on account of his having been a native of another kingdom that this witness, as well as the clergyman, is stated to have been *solutus*, or released from some restraint, before giving his evidence. He deposed to the truth and verity of the following declaration now given in by him, "which," says the record, "is all written and subscribed with his own hand, and consists of two leaves of paper, written on all sides:"—

"I, Umphray Spurway, of New Milns, clothier, being summoned to appear before the Lords of his Majesty's Privy Council in Edinburgh, the 6th of December, 1687, to declare my knowledge of what I had seen

and heard, relating to the death of Sir James Stansfield of New Milns, did then and there declare before the said Lords, as hereafter followeth; and, after declaring what I had to say, was commanded to commit to writing my said declaration, under my own hand, which I, the aforesaid Umphray Spurway, do hereby humbly offer to the above-said Lords of his Majesty's Council, subscribing the same with my own hand.

"About six weeks before the death of Sir James Stansfield, after night, I went to pay my respects to Sir James, as I usually did when he was at New Milns, at which time I found him not so free for discourse, nor so pleasant as at other times: insomuch that I used that freedom with him, to *quere* the reason why his honour was so melancholy. Who, with a great sigh, wringing his hands together, with tears trickling down his cheeks, said, Mr. Spurway, I have great cause for it; I have borne my own burden, without complaining to others, but I have a very wicked family, and it is very sad that a man should be destroyed by his own bowels; but let me be never so sparing in my expense, both at home and abroad, yet they at home of my family consume me—condescending on some particulars, of some extravagant sums of money, monthly brought in to him, that his family had expended, besides what he allowed for them, which was very sufficient; but that which grieved him most was, that his youngest son, whom he had some comfortable hopes of, and upon whom he had settled his estate, his just debts being first paid, and that to the knowledge of his son; but now he was frustrated of his hopes of that son too; for his eldest son had debauched his youngest son, who had several times of late come in drunk, as the other; this he declared to me with very great grief of heart. But the Saturday's night after Sir James and a minister, one Mr. Bell, came to New Milns from Edinburgh, I came in at the house of one James Marr, where I saw Sir James and Mr. Bell sitting by the fire, before he had been at his own house, which I wondered at, having never known the like done by him before; but since I have had my thoughts that he had a fear upon him (good gentleman) of going to his own house; but, having sat some time with him, he desired Mr. Marr to send one of his people at his house, to know if they had kindled a fire for him; and upon the return the messenger gave this answer, May it please your honour, your fire is kindled for you; upon which Sir James and the minister arose, and took their leave of Mr. Marr; and I also accompanied Sir James and the minister half the way towards his home, and so took my leave of him, wishing his honour a good night. But the next morning, being Sabbath-day, after

the light well appeared, one Agnes Bruce came at my chamber door and knocked. I went and opened the door. Says she, Sir, Sir James is gone out of his lodging-room this morning, and we have sought all the rooms of the house for him, but cannot find him. She goes off—I immediately followed her; and when I came out of my door I met with Mr. Philip Stansfield and James Dick. Mr. Stansfield declares to me, Lord, Mr. Spurway, what should be the cause of this man's discontent, that he should thus leave his lodgings and walk out? To which I replied, Sir, do you wonder the cause of his discontent, who never gave him content, but had been the cause of grieving him, from one to the other of them, ever since I knew the family? But he turned his back upon me, and made no reply at all. However, I went at Sir James's house, but could not procure the keys of neither of the gardens, and I sent abroad of Sir James's servants, and of my own, some on horseback and some on foot, to inquire after him: at last a servant of mine, one William Bowman, found him in the river. I went at the place, and saw him lying about two yards or eight feet from the brink of the river, lying upon his stomach, just at the top of the water, as it were floating, only his coat and waistcoat loose about him, and a shirt on him that I saw. I saw the place at the brink of the river, where some one had stood, all beaten to mash with feet, and the ground very open and mellow, although a very hard frosty morning; so I gave order to some to get a ladder, and to set one end into the river, as near the hinder part of Sir James as they could, and the other end of the ladder to fall at the top of the brae [bank], which was very steep, and so they might get him out easily; so I came away from the place, and desired Mr. Marr to see the body landed, declaring that I would go home, and write to Mr. George Hume, merchant in Edinburgh, of the sad sight which I had seen, desiring him to communicate the same to my Lord Advocate, with desire to know by the messenger his lordship's pleasure, what of advice or direction he would be pleased to give concerning it, and it should be followed: but the messenger that I sent, after he had delivered my letter to Mr. Hume, and order given by Commissary Dalrymple how to proceed further with the body of Sir James, which order was directed to myself by a letter, which, when I read the letter, the contents were:—That I should endeavour to procure two or three discreet persons of New Milns to myself, and we together view the body of Sir James; and, if we found no grounds to believe that his person had been wronged by others, that then with all speed he should be buried, and that as privately, and with

as little noise as could be: but this letter, which was the commissary's order to me, was sent by the hand of one James Mitchel, kinsman to Sir James; for that horse that the express rode on to Edinburgh was taken out of the stable where he was set up; and one Mr. Patrick Smith, the brother-in-law of Sir James Stansfield, mounted on him to come for New Milns. So that my express was thereby disabled to bring me the answer of my letter; and the said James Mitchel, who brought my letter, came home at the place by nine of the clock that Sabbath-day at night, and gave an account of the letter that he had for me; but they dissuaded him from bringing it me, so that I had it not till three hours after Sir James was buried. But upon Monday morning I arose about three or four of the clock; and, coming out of my house, I saw great lights at Sir James's gate, which occasioned my going down to see what the matter was; and, as I went, I met with one William Robinson coming up of home; I asked what the meaning was of these lights, and of the horses that I then saw at Sir James's gate? Who answered me, that Sir James's corpse was brought out at the gate, and that they were carrying it at Moreham to be buried, having received orders from my Lord Advocate for that purpose. At which I returned to my house, thinking it very strange thus to proceed without having had the corpse viewed by some person, as I well knew was customary in England in such cases. The next step, to my remembrance, was, that upon the Tuesday night following, after I was in bed, one Mr. Alexander Campbell in Edinburgh, with one Mr. James Row, and a gentleman, one Mr. Hamilton, with two chirurgeons, came at my house, and caused me to rise out of my bed, shewing me an order which they had from my Lord Advocate for the taking up again of the body of Sir James Stansfield, and commanded me to make ready to go with them; and, having seen the order, readily submitted thereunto, and, when coming upon the place at Moreham, caused the said grave to be opened, and the coffin taken up. It was carried into the church, and there opened; and, as soon as Sir James's grave-clothes were taken off him, and all his upper parts uncovered, ... methought his face looked not as I expected, nor as others had insinuated, that were at the dressing of him at first; for they said that his body and face were very fair and fresh; but I found his face, at first view, of another complexion, being blackish, with some streaks of red, like standing, or rather strangled, blood; and under his left ear I saw a swelling home to his throat, of a blackish-red colour. After this I saw the chirurgeons opening his body, beginning at the top

of his chin, and so down to the pit of his stomach, and then cut his skin on both sides his throat, towards each ear, and, coming at the place near his left ear that I saw swollen, I there saw of corroded, or congealed blood, lying a lump of great thickness, and two or three inches long, which proved to me he had been strangled: and one thing more I observed, that, when Mr. Murehead put off his cap at first from his head, in slipping it back, Sir James's eye-lids opened, and his eyes appeared, but his eye-lids were much swollen and very red, which did also prove to me a symptom of strangling. This being done, and his breast opened, so that his entrails appeared, and to me seemed in good order, and no appearance of water in his body, neither then, nor when first he was taken out of the river; the like, I think, has not been ever known by any man that cast himself, or that has been cast into a river alive, and not to have his body full of water; nor that ever a dead man should lie at the top of the water where no running stream is, but a still water of about five feet deep; but to me in this it shews that, as God is a wonder-working God, so he has in this shewn no less, to convince men that this worthy gentleman murdered not himself, but was murdered.

"But my last observation was of a wonder more, that the Lord did shew, when the chirurgeons had caused the body of Sir James to be by their servants sewn up again, and his grave-clothes put on. A speech was made to this purpose:—It is requisite now that those of Sir James Stansfield's relations and nearest friends should take him off from the place where now he lies, and lift him into his coffin. So I saw Mr. James Row at the left side of Sir James's head and shoulder, and Mr. Philip Stansfield at the right side of his head and shoulder; and, going to lift off the body, I saw Mr. Philip drop the head of his father upon the form, and much blood in his hand, and himself flying off from the body, crying, Lord have mercy upon me! (or upon us!) wiping off the blood on his clothes, and so lay himself over a seat in the church. Some supposing that he would swarff, or swoon away, called for a bottle of water for him. After this we went for Moreham Castle, where Mr. Philip Stansfield, myself, and several others, staid until it was day. In which time I challenged Mr. Philip for his unkindness to me, by his not inviting me to accompany the corpse of his father when first buried, knowing the intimacy that there was betwixt his father and myself, and that, of all the people in or about the town, his father delighted in no one's company as in mine; and that he did not give me notice of his burial, that I might do my last office of love and service to him by accompanying his

body to his burial-place; I took it very ill from him. So then Mr. Philip swore that he had sent two of his servants to invite me, but, if those damned rogues would not do it, what could he help it? and yet did declare, as is proved, and as himself since confessed before my Lord Advocate, that he would not invite me, assigning this as his reason, supposing that myself and James Marr had been instruments of setting his father against him, which was a false suggestion. All which particulars I have, before the Lords of his Majesty's honourable Privy Council, declared: so, by their command, I have in this sheet of paper written it over with my own hand, and do hereby subscribe my name, the 16th of December, 1687."

The portion of the evidence, however, that goes farthest to prove that a murder had been committed, and that is moreover of the deepest interest in every respect, is that which closed the case for the prosecution. The Lord Advocate now proposed that two children, James Thomson, the son of George Thomson, a boy of thirteen, and Anna Mark, the daughter of Janet Johnston, a girl of ten years old, should be examined; and, although their admission as witnesses was refused by the Court, on the representation of the prisoner's counsel, that from their tender age they were not by law capable of being sworn, yet "in regard," says the report, "the persons on the inquest earnestly desired the said James Thomson and Anna Mark might be examined anent their knowledge of the pannel's accession to the foresaid murder, they allowed the forenamed persons their declarations to be taken for clearing of the assize," —in other words, for the more complete satisfaction of the jury. Few more striking passages are to be found in the records of proceedings in courts of justice than the evidence which the boy, Thomson's son, accordingly now gave. He declared that "Janet Johnston came to George Thomson's house between nine and ten at night, and Philip Stansfield, the pannel, came there shortly thereafter: and, the house being dark, the said Philip gave the declarant a turnor [a small copper coin] to buy a candle, which he did in the neighbouring house; and, after the declarant returned with the candle, his mother ordered him to go to his bed, which was in the same room, and beat him because he did not presently obey. Declares he heard one come to the door and inquire for Janet Johnston, and desired her to come home and give her child suck. Declares, he knew by the voice that the person who came was Agnes Mark, the said Janet's daughter, and that Janet ordered her to go away, and that she should follow her. Declares, she stayed a considerable time thereafter, and the

said Thomson's wife was desired to go for a pint of ale, and Philip took out a handful of money to see if he had any small money, and, finding he had none, the ale was taken on upon trust. Further declares, that the said George Thomson and his wife, and Janet Johnston, did stay together and whisper softly a considerable time. Declares, he heard Philip Stansfield complain that his father would not give him money, and pray the devil to take his father, and he should make an end of his father, and then all would be his, and then he would be kind to them. Declares, Philip Stansfield and Janet Johnston went away about eleven, and shortly after his father and mother came to the bed where the declarant was lying across the bed-foot; and the declarant in the night-time perceiving his father and mother rising out of the bed, and going out of the house, and that they staid a considerable time away, about an hour and a half or two hours, and that the declarant was perfectly awake when they went and were away, and he wondered what they were going about. Declares, his mother came in first, and came softly to bed, and within some time after his father came in, and put a stool to the back of the door, without locking it, for the lock made always a great noise when they locked the door; and the declarant's father called to him whenever he came in, but the declarant made no answer, that it might be thought he was sleeping; and his mother asked what had staid his father; and thereupon his father and mother did fall discoursing of several things, and particularly his father said that the deed was done, and that Philip Stansfield guarded the chamber-door, with a drawn sword and a bended pistol, and that he never thought a man would have died so soon, and that they carried him out towards the water-side, and they tied a stone about his neck, and, leaving him there, came back to the Little Kiln, and reckoned whether they should cast him in the water with the stone about his neck or not, and whether they should cast him far in, or near the side, and at length they returned, and took away the stone from about his neck, and threw him in the water. Declares, his father said that yet he was afraid, for all that, that the murder would come out, and his mother answered 'Hoot, fool, there is no fear of that, it will be thought he has drowned himself, because he will be found in the water.' Declares, when Sir James was missing in the morning, the declarant's mother said to his father, 'Rise quickly, for if ye be found in your bed they will say that ye have a hand in the murder.' Declares, the coat and waistcoat which were upon Sir James when he was found in the water were sent to Thomson's house, and Thomson's wife said to

her husband and Janet Johnston, in presence of the declarant, that she was affrighted to see the same coat and waistcoat, for she thought that some evil spirit was in it, and desired her husband to send it away, which he would not: and further, that his mother said to her husband, in the declarant's hearing, that she was affrighted to be in the house alone after nightfall; and, accordingly, whenever her husband went out, she went out with him, which was not her ordinary. Declares, the said George Thomson did go into Edinburgh several days before the declarant's mother was brought in, and she did immediately after he came into Edinburgh send away Sir James's coat and waistcoat, and that she was never in her own house after night since her husband came in, but did lie in Janet Johnston's house."

The declaration of the little girl, Anna Mark, Janet Johnston's daughter, was to the following purport:—"That on the said Saturday night Philip came up to her mother's house, and sent for George Thomson and his wife, and thereafter he sent her to see if Sir James was come home; declares, that she saw Philip with his hat off give a low salutation to George Thomson when he came up to him; and when she returned and told that Sir James was come, Philip did take a drink, and runs down to New Milns; that about eleven o'clock that night her goodfather [step-father] sent her to seek her mother, and that she found her mother with Philip, in George Thomson's house, and that her mother bade her go home, and she would come after her; and that her goodfather thereafter, finding her mother did not come, sent her for Margaret Isles to give suck to the child, and went home again; but that her mother did not come long after that, as she thinks about two in the morning, and that she heard her good-father say, Wretch, where have you been so long? and she answered, Wherever I have been, the deed is done; and then went to bed: and that after that she heard them speak together, but could not know what they said. She declares, also, that her mother said she was still feared, and would not abide alone, nor lie alone in the bed, but said she was afraid."

These remarkable declarations wound up the evidence for the prosecution, and indeed all the evidence that was produced in the case; for the prisoner's counsel called no witnesses.

The counsel for the prisoner being, moreover, silent, the jury was now addressed by the Crown counsel, Sir George Mackenzie. Mackenzie, whose name deserves an honourable place in the literary history of his country, both for various professional and other literary works,

and more especially for the lasting debt the bar—and it may be said the public—of Scotland owe to him as the founder of the Advocates' Library, had himself held the office of Lord Advocate from 1674 till the accession of King James II., and was re-appointed to it very soon after the present trial, on the elevation of Sir John Dalrymple to a seat on the bench as Lord Justice Clerk. But the Revolution, which made Dalrymple Secretary of State, or Prime Minister for Scotland, drove Mackenzie from public life. He retired to Oxford, and entered himself a student there at the age of fifty-four, but died within a year after. In politics Sir George Mackenzie, as his writings as well as his life attest, was a devoted worshipper of prerogative and the divine right; and in the arbitrary times in which he served, he has the credit of having gone as far as any one in carrying his doctrines into practice. The thorough-going style in which he exercised the powers of his high office made him be long popularly remembered as "The blood-thirsty Advocate."

He began his speech as follows:—"Gentlemen of the inquest, I am glad to see so strong and universal a propensity for justice in my native country, that every man upon first hearing this death concluded it a murder, and trembled lest it should not have been discovered. Every man became solicitor in it—wished to be of the inquest; and ardent prayers were generally put up to Almighty God for this end with as much earnestness as uses to be for removing general plagues. And the Almighty, in return of those, did first make so clear impressions on all men's spirits of Philip's being the murderer, that he had fallen by these; but his Divine Majesty, who loves to see just things done in a legal way, furnished thereafter a full probation in an extraordinary manner, whereby we might not only convince ourselves, but all such as are not wicked enough to have been the authors. You will discern the finger of God in all the steps of this probation as evidently as Philip's guilt; and this extraordinary discovery has been made, as well to convince this wicked age that the world is governed by Divine Providence as that he is guilty of this murder."

The learned counsel then proceeded to observe on the evidence.

Upon the miracle of the bleeding of the corpse, Sir George was very great. Therein, he said,—"God Almighty himself was pleased to bear a share in the testimonies which we produce; that Divine Power which makes the blood circulate during life has oft-times, in all nations, opened a passage to it after death upon such occasions, but most in this case; for after all the wounds had been sewed up, and the body designedly

shaken up and down, and, which is most wonderful, after the body had been buried for several days, which naturally occasions the blood to congeal, upon Philip's touching it the blood darted and sprung out, to the great astonishment of the chirurgeons themselves, who were desired to watch this event; whereupon Philip, astonished more than they, threw down the body, crying, O God! O God! and, cleansing his hand, grew so faint that they were forced to give him a cordial." He next adverted to the evidence of the two children, sent, as he observed, by Divine Providence, which oft-times reveals itself by the mouths of babes and sucklings, in order that no shadow of difficulty might remain on the case. "How then," he proceeded, in a peroration, from which may be gathered several interesting circumstances of the case, and incidents that marked the progress of the trial of which there is no other notice in the report, "should the least scruple remain with you, before whom so full, so clear, and so legal a probation has been led, that, like a bend, every part of it supports another; and, like a chain, every link draws on another? I need not fortify so pregnant a probation by laying out before you how often he and his complices have contradicted one another, and even how often he has contradicted himself in the most obvious and material points, and how he denies everything with oaths and with equal confidence, though never so clearly proved; albeit such as these are the chief things that make up the probation in other cases: nor how he suffered the greatest indignities imaginable from his complices in presence of the Privy Council, though this convinced many of their lordships that he was at the mercy of those complices, who were too far upon his secrets not to be slavishly submitted to. But I cannot omit how, that since he came into prison, he has lived so impiously and atheistically, as shews that he had no awe upon his spirit to restrain him from committing any crime from a love to God or a fear to hell; and that he constantly filled and kept himself drunk from morning till night, thereby to drown the voice of his conscience, and to make himself insensible of the terrors of the Almighty.

"The judges have declared what was necessary to be proved, and you are only to judge if we have proved what they have thought necessary; and therefore there is no place to doubt if a man's life may be taken upon mere presumptions, for the judges have eased you of that scruple by finding the grounds in this qualified libel relevant; and his own advocates have acknowledged this probation to be so strong and unanswerable, that before the half of it was led they went away and deserted

a client whom they found they could not defend; nor should any man doubt of a probation which one's own advocates think invincible. If then such amongst you as are fathers would not wish to be murdered by your own children, or such of you as are sons would not wish the world to believe that you are weary of your fathers, you will all concur to find this miscreant guilty of a crime that God *has taken so much pains*" [an odd expression] "to detect, and all mankind had such reason to wish to be punished. May then the Almighty God, who formed your hearts, convince them; and may this poor nation cite you as the remarkable curbers of vice to all succeeding ages!"

When Sir George Mackenzie had concluded his address, His Majesty's Advocate protested for an assize of error against the inquest, in case they should assoilzie [acquit] the pannel. That is to say, he protested that, in case the jury should pronounce the prisoner not guilty, he might be entitled to have them brought up to be tried themselves for giving a wrong verdict.

But the jury unanimously found the prisoner Guilty of all the facts laid in the indictment; viz. of treason, cursing his father, and being accessory to his murder.

The assize finding him guilty, the lords of justiciary ordered him to be hanged on the 15th of February, at the cross of Edinburgh, and his tongue to be cut out for cursing his father, and his right hand to be cut off for the parricide, and his head to be put upon the East Port of Haddington, as nearest to the place of murder, and his body to be hung up in chains betwixt Leith and Edinburgh, and his lands and goods to be confiscated for the treason.

All this was rigorously put into execution. "Some thought," says Lord Fontainhall, a contemporary judge, "if not a miraculous, yet an extraordinary return of the imprecations was the accident of the slipping of the knots on the crosse, whereby his feet and knees were on the scaffold, which necessitated them to strangle him, bearing therein a nearer resemblance to his father's death; and a new application having been made that they might be allowed to bury him, Duke Hamilton was for it, but the Chancellor would not consent, because he had mocked his religion: so his body was hung up, and some days after being stolen down, it was found lying in a ditch among some water, as his father's was; and by order was hung up again, and then a second time was taken down."

The haze of popular superstition with which this horrible case is surrounded is no unfit atmosphere for one of the darkest and saddest of

domestic tragedies to be found in judicial records; a tragedy, as we may gather from many glimpses we have, through the scene chiefly presented to us by the trial, into the back-ground of the past, of long years of sin and sorrow before the horrors of that last midnight in which the old man's breath was crushed out of him by the son who had already broken his heart. Philip Stansfield is said to have been a reprobate from his youth upwards; and a story is told by the Scottish church historian, Wodrow, which makes his doom to have been pronounced by the voice of prophetic sagacity, not uninspired, long before he heard the fatal words from the lips of the Dempster of the High Court of Justiciary. "This profligate youth," Wodrow writes, "being at the University of St. Andrew's, a good many years before he committed this barbarous murder, came to a sermon in Kinkell Close, about a mile from St. Andrew's, where Mr. John Welsh was preaching, and, in his spite and mocking, in time of sermon, threw somewhat or other at the minister, which hit him. The minister stopped, and said he did not know who had put that public affront on a servant of Christ; but, be he who he would, he was persuaded there would be more present at his death than were hearing him preach that day, and the multitude was not small. This was accomplished, and Mr. Stansfield acknowledged this in prison after he was condemned, and that God was about to accomplish what he had been warned of." Wodrow says that he had the circumstance "from several hands, and one of them present when this passage fell out." The clergyman who made this severe repartee was a great-grandson of John Knox, and one of a family eminent in the Scottish church for eloquence and courage during nearly the whole of the stormy period from the Reformation to the Revolution. The time of Mr. John Welsh's preaching in Fife was from about 1670 to 1674

THE TRIAL OF PHILIP, EARL OF PEMBROKE.

THIS investigation presents nothing in itself but the record of a night disturbance, which led to a fatal result, as, at the period it occurred, such scenes but too often did. Its interest is derived from the importance of the accused party, an interest that has been enhanced by an excellent account of the trial given in a collection of English Causes Célèbres, which enables us to enliven the otherwise dry details of the transaction.

Philip Herbert, seventh Earl of Pembroke and fourth of Montgomery, was the unworthy scion of a house of historic note. The Herberts of his date were the descendants collaterally of the great Earl of Pembroke, the ornament of the court of King James, whose name Ben Jonson has stamped as one of the synonymes of chivalrous splendour and honour, in his famous lines on—

"The subject of all verse
Sidney's sister, *Pembroke's* mother."

They sprung from his younger brother, who began life as one of James's favourites and parasites, was originally ennobled by the title of Earl of Montgomery, and finished a contemptible career by being, after the fall of the monarchy, the first member of the peerage (only two others of the order followed such a leader) to seek a seat in the House of Commons, which he did not retain for more than a few months. Earl Philip, the hero of the present trial, was his grandson, and had succeeded to the title in 1674, on the death of his half-brother William, who left no family.

When he became involved in the affair out of which the trial arose, the Earl of Pembroke had just got extricated from another scrape of a different kind. An entry on the Lords' Journals, dated the 28th of January, 1678, records that the house was that day informed by the Lord Chancellor, in the name of his Majesty, of "the commitment of the

Earl of Pembroke to the Tower of London, for uttering such horrid and blasphemous words, and other actions proved upon oath, as are not fit to be repeated in any Christian assembly." Bishop Kennet says that the earl was sent to the Tower "for blasphemy, abuse of the sacrament of the Lord's Supper, and other high misdemeanors, altogether unfit to be named, towards the Lord North's chaplain and others." It may be suspected that the colour of Lord Pembroke's politics, or some of his recent votes, had shocked the pious prince then upon the throne as much as his unreportable blasphemies; but no doubt his lordship's character was such as to give some probability to the professed ground of his committal. However, on the following day a petition from him was presented to the House, in which, after declaring that blasphemous words were what from his soul he detested and abhorred, he went on to express a hope that, since he had been accused but by one person, "to whom he intended no injury, nor was at that time in a condition of imposing on him," their lordships would not believe the accusation, or think him to be capable of the horrid crime laid to his charge. His single accuser is said to have been Lord North's chaplain. But in the end he drops down to a less confident style: "However," the petition concludes, "he is heartily sorry to have been thought in any sort to have offended; and, his health being much impaired by his long restraint, *he humbly implores pardon of God, of the King, and of this House;* and that he may be released from his imprisonment, and attend his duty in Parliament." Before taking the petition into consideration, their lordships, the Journal continues, "to show their great sense and abhorrency against blasphemy, which is now grown so common, ordered that a bill be brought into this House, for the severe punishment of all blasphemies for the time to come." Such a bill was in fact brought in, but was not proceeded with. The House then went into the question of the petition, and, "after a serious debate thereof," it was moved and carried that an humble address should be made to his Majesty, praying that, in consideration of the charge being supported by one witness only, and its truth having been solemnly denied by the Earl of Pembroke, his lordship might be released from his imprisonment, and have leave to come to his place in parliament. The consequence was that the Earl was let out of the Tower, after a detention of about four weeks; for he had been committed on the 3rd of the month.

The way which his lordship took to repair his health, so "much impaired by his long restraint," will be understood from a representation

that was made to the House on Tuesday, the 5th of February, by Philip Rycaut, Esq., who complained that, on the evening of the preceding Saturday, "he being to visit a friend in the Strand, whilst he was at the door taking his leave, the Earl of Pembroke, coming by, came up to the door, and with his fist, without any provocation, struck the said Philip Rycaut such a blow upon the eye as almost knocked it out; and afterwards knocked him down, and then fell upon him with such violence that he almost stifled him with his gripes, in the dirt; and likewise his lordship drew his sword, and was in danger of killing him, had he not slipped into the house and the door been shut upon him." Rycaut concluded his petition by humbly begging that the House would "be an asylum to him," and give him leave to proceed against the Earl according to law. Having been called to the bar, he took his oath to the truth of this account, and narrated the affair in all its details; upon which the House ordered that the Earl should enter into recognizances to keep the peace towards Rycaut and all his Majesty's subjects for a twelvemonth, to the amount of £2,000; which his lordship did, declaring at the same time, that he would wave his privilege (of peerage) and answer any such proceedings at law as the said Philip Rycaut should bring in the case. In those days it was held that members of either House of Parliament were protected by their parliamentary privilege, not only, as is still the case, from arrest of the person, except in cases of felony, but from every species of legal process; and down to a much later date it was customary for both Lords and Commons to call to their bar whoever presumed to raise an action of any kind against a member, or, at least, whoever was daring enough to proceed to the execution of any judgment he might have obtained in such action.

But his assault on Saturday evening on Rycaut was not the only indulgence of the same kind with which the liberated Earl had consoled himself for his three weeks of quiet life in the Tower. On Monday the 4th, before Rycaut had had time to invoke the protection of the House of Peers, his furious lordship had got involved in another affair, which, although he was not yet aware of his danger, or of the mischief he had done, was shortly to consign him again to durance on a charge affecting his life. This affair is the subject of the trial of which we are now to give an account.

The Lord High Steward appointed on this occasion was the Lord Chancellor, Lord Finch, afterwards Earl of Nottingham. Heneage Finch, the first Earl of Nottingham, was one of the greatest lawyers

of his time, and renowned for his powers of oratory. The cordial and all-recording Pepys, in telling about a cause in which he had heard him speak at the bar of the House of Lords in 1664, when he was Solicitor-General, exclaims, in the wonder and gratification of the moment, "I do really think that he is a man of as great eloquence as ever I heard, or ever hope to hear in all my life." On another occasion, in 1669, he heard him plead a cause before the Privy Council, and was again struck with the same admiration: "But Lord!" he ejaculates, "to see how he did with his admirable eloquence order the matter is not to be conceived almost; so pleasant a thing it is to hear him plead!" He is described by old Anthony Wood, the historian of Oxford, in the same spirit, as "a person of so eloquent and fluent speech, and of so great sapience, that he was usually styled the English Roscius and the English Cicero."

Finch, who was appointed Lord Chancellor in 1675, held the high office till his death, at the age of sixty-one, in 1682; and the present was one of no fewer than five trials before the peers, during that interval, at which he was commissioned to preside as Lord High Steward.

This trial took place before the Peers, in Westminster Hall, on the 4th April, 1678. The proceedings commenced with the following eloquent address of the Lord High Steward to the prisoner:—

"My Lord of Pembroke, your Lordship is now brought before this great assembly in order to your trial, wherein you have to maintain all that can concern you in this world, your estate, your honour, and your life itself. There is no less a crime charged on you, than the murder of one of the King's subjects; and this is not charged on you by common voice and fame, nor by the growing rumour of the multitude, but by the grand inquest of this county, which was made up of gentlemen of good quality and consideration. Though all this amount to no more than a bare accusation, (for God forbid that they who neither did nor could hear the evidence on both sides should any way prejudge your trial by their partial examination!) yet hath it produced the presentment of such a crime as is attended with extraordinary and unusual circumstances.

"And now for this fact, your Lordship is to be tried in full Parliament, and your arraignment is to be made as full and solemnly as is possible. The King (who will have a strict account of the blood of the meanest of his subjects, by whomsoever it is shed) hath for this purpose appointed a High Steward: and now your Lordship is to be tried, not by a select

number of Lords, but by the whole of the House of Peers, who are met together to make inquisition for this blood.

"Doubtless the shame of being made a spectacle to such an assembly as this, and the having a man's faults and weaknesses exposed to the notice and observation of such a presence as this is, to a generous mind must needs be a penance worse than death itself; for he that outlives his own honour, can have very little joy in whatsoever else he lives to possess.

"In such a state and condition as this is, it will be very fit for your Lordship to recollect yourself with all the care and caution you can; it will be necessary for you to make use of the best temper, and the best thoughts you have, when you come to make your defence; let not the disgrace of standing as a felon at the bar too much deject you; no man's credit can fall so low but that, if he bear his shame as he should do, and profit by it as he ought to do, it is in his power to redeem his reputation. Therefore, let no man despair, that desires and endeavours to recover himself again. Much less let the terrors of justice affright you; for, though your Lordship have great cause to fear, yet whatever may be lawfully hoped for, your Lordship may expect from the Peers.

"It is indeed just cause of dreadful apprehensions, when you consider how strict and impartial the judicature in which you stand before, and how impossible it is that any consideration of your Lordship's relation or family shall have any kind of ingredience into their Lordship's judgment: nay, you have cause to fear that all this will make against you, when you consider how the quality of the offender doth aggravate the crime.

"You have reason to fear and be dismayed again, when you consider how severe, and how inexorable the rule of law is, in the case of blood; and how certain it is that the Lords will make that rule of law the measure of your life or death. But yet, my Lord, there are other considerations that may support you.

"Your Lordship may be sure that they will receive no proof against you but direct and positive evidence; it will not be left to any proof, but such proof as, by the manifest plainness of it, deserves to be called evidence. In the next place, your Lordship shall suffer no prejudice for want of counsel, for where there are any advantages that the law can give you, this court takes itself obliged in honour to put you in mind of it; nor can your Lordship suffer any inconvenience by having counsel to plead against you, for no arguments nor skill can pervert their Lordships' justice: you shall not fall by the charms of eloquence; nothing

shall load or press you but your own crime; and even that burden may be alleviated, if there be any room for an abatement, so far as it doth not contradict what they owe to the King, to themselves, to the law, and to the justice of the kingdom.

"Hearken, therefore, my Lord, to your indictment with patience and attention: give no interruption to the counsel or witnesses that speak against you, and reserve what you have to say for yourself till the time come when your witnesses shall be examined, and you make your defence, of which I will give you notice. And this you may rely upon, that, when you do come to speak for yourself, you shall be heard with as much favour and candour as the matter will bear; and when my Lords have heard all that can be said on both sides, doubtless their Lordships will give such a judgment in the case as is fit for you to receive; such a judgment as becomes this great court, and such a judgment as is suitable to that known equity which their Lordships do always observe in all their proceedings."

Sir William Dolben, Knight, Recorder of London, then, in his quality of the King's Serjeant at Law, opened the indictment with the usual brief abstract of the main facts; after whom—

The Attorney-General, *Sir William Jones*, who, having been called by writ as assistant to the House, was within the bar, rose and spoke as follows:—May it please your grace, my Lord High Steward of England, and the rest of my noble lords; Philip, Earl of Pembroke and Montgomery, stands here indicted for the murder of Nathaniel Cony. That my Lord of Pembroke was the cause of his death, I humbly conceive will need very little question before your Lordships, for we have such proof that it was his hand threw him down, and his feet that trod upon him, and kicked him, which was the cause of his death, that it cannot be denied: but whether or no this killing amount to murder may be a matter of further controversy; and I hold it my duty to acquaint your Grace and my Lords, what the proof is, and then what we have to offer to prove it to be an offence even of this nature.

My Lords, I know, to maintain an indictment of murder, there must be a proof of malice; but the law is plain (your Lordships know, and my Lords the Judges will tell it you) that there are two sorts of malice expressed, and that is when a man can be proved to have borne beforehand an ill-will and hatred to the person he killed; this sort of malice we pretend not to be in this case: but there is another sort of malice, which also, in law, gives the denomination of murder to the kill-

ing of a man, which is malice implied, when any one shall, without any provocation given by the party slain, bring another by violence to his death; for our law supposeth, and that upon good ground, that no man without a provocation would kill his brother, unless he had malice to him before-hand; and that is the malice that falls out to be the ingredient of this case, for the poor unfortunate gentleman that was killed, did not, for aught that did appear to me (and I have had all the proof given at the coroner's inquest under my examination), give the least provocation to this noble lord. Some have thought that a person might be guilty of malicious murder, though the party killed had given the murderer a blow; but I shall not contend for so strict a construction of a provocation, for there was not in this case a blow struck, no, nor an angry word given: all that I can find came from Mr. Cony was, to complain that a friend of his that came into the company with him was turned out of doors; and sure such a thing will never be taken to be a provocation, at leastwise such a one as will take away malice implied. I shall now, my Lords, give your Lordships an account of the nature of our evidence, as to the fact, and that, my Lords, in short; for, as I shall not use any aggravation above what the cause requires, so I shall not tire your Grace and my Lords with any long speech, but barely open the evidence and tell you in short what will come in proof before you.

It was on Sunday, the 3d of February, that my Lord of Pembroke and his company were drinking at the house of one Long, in the Haymarket (I am sorry to hear the day was no better employed by them), and it was the misfortune of this poor gentleman, together with one Mr. Goring, to come into this house to drink a bottle of wine; my Lord of Pembroke saw them coming in, and, knowing Mr. Cony, was very importunate with him to join company; he at first refused, because of his friend, and told his Lordship they had business together: but no denial he would take, and so at last they did go into my Lord's room. After some distance of time, when it was near twelve of the clock at night, there fell out a difference between my Lord and Mr. Goring (the gentleman that came in with Mr. Cony), who, it seems, gave my Lord of Pembroke some words which provoked him to express his distaste of them, by throwing a glass of wine in his face; which injury Mr. Goring so far resented, as that he was about to draw his sword, but was prevented by some of the company, and put out of the room, to avoid further mischief. This gentleman, Mr. Cony, that was killed, was not at all concerned in the matter of the difference, but only desired to go out of the room, that he

might look after his friend, who was thrust out of doors, he knew not why (without any provocation, as you will bear by and bye). My Lord of Pembroke falls upon him, strikes him with one blow to the ground, and when he was there trod upon him on his back, on his stomach, on his side, and kicked him so that the poor gentleman fell into a swoon, and was, after some time, with much difficulty, brought to himself again. After they had perceived there was life in him, they lifted him up, and laid him down on some chairs that were in the room, and, thinking too much had been done by them already, they take their leaves of him, and commit him to the care of the drawer. He was not (as it should seem) so carefully attended by the drawer, whose ignorance could not look after him as his condition required, and so fell down off the chairs again divers times. After some time, early in the morning, he was carried away in a sedan to his own lodging, and being there put to bed, as he grew a little more and more recovered out of his stupefaction, so he grew more and more in pain, and sent for doctors and chirurgeons to consult with, by whom he had all the means used that was possible to have saved his life, but it proved there was so much blood forced out of his veins, and gathered into one place of his body, by those blows and bruises, that he could not be recovered, and so, after a week's time passed in intolerable pain, died: but yet all the time of his dying, and even constantly to his death, he did complain that it was my Lord's bruises brought him into that condition. It will also be proved, that, after his death, upon view of the body, by the coroner and his jury, there was the appearances of those blows and bruises, by broad bruises in several parts of the body, and this some of the jury will testify. This, in short, is the matter of the evidence, which we shall briefly prove, and then submit it all to your Lordships' judgment."

The witnesses who were present at the scene were, Mr. Henry Goring, Mr. Richard Savage, Mr. John Shelly, and Captain Fitzpatrick. They all agreed pretty closely in their testimony. It will therefore be only necessary to give here the evidence of two of them, Goring and Savage, which was as follows:—

Mr. Goring.—May it please your Grace, Mr. Cony and I did, on Sunday, the 3rd of February last, dine in the city; we staid very late there, and I must ingenuously confess, we had drank more than was fit for us to have done; after that, if it please your Grace, I offered to set down Mr. Cony at his lodgings, but he was so very ceremonious, that he would see me home; it seems, Long's house, the tavern, in the Hay-

market, was in the way, and Mr. Cony would needs have us drink another bottle of wine, ere we parted. It was late, and the door shut, but we, knocking pretty hard for admittance, did get it opened, and, as soon as the door was opened, Mr. Cony went towards the bar, and made some noise, being in drink; my Lord of Pembroke was then in a low room in the house, and knowing Mr. Cony (as I thought), came and asked him if he would come in and drink with him; he replied, "My Lord, I am with a friend, and we have some business together." At length, my Lord asked me very civilly to come in, and we did, after some time, come in; and, when we were in, my Lord drank to me, as I remember, and we stood round the table awhile, and, at last, sat down in some chairs, for we were not so much ourselves as to be able to stand all the while; then there was, it seems, some dispute between my Lord of Pembroke and me, wherein my Lord did conceive I had done him some injury, and threw a glass of wine in my face.

Att. Gen.—What kind of discourse was that, pray, Sir?

Goring.—Truly, may it please your Grace, I cannot remember all the discourse, because I was so much in drink at that time; they say, it was about families and play; I cannot, positively, say what it was; but, after, my Lord of Pembroke rose up to draw his sword, and I laid my hand upon mine.

Att. Gen.—Well, Sir, and what followed then?

Goring.—Captain Savage stepped in between my Lord and me, and the drawer came bustling about, and took me, and shoved me out of the room; while I was thrusting out, I heard a noise behind me, and I saw my Lord make somewhat towards Mr. Cony; but more, I cannot say what was done, because Mr. Savage was between my Lord and me. When I was out of the room, I found my sword gone, and my hat and periwig; I then made a noise at the door, and would not go away, until I had recovered my things; the man of the house, who was in bed, it seems (for he was then undressed, and in his night-gown), came and asked me what was the matter? I told him I had been in the room with my Lord of Pembroke, where I had received some ill-usage, and had lost my hat and periwig, and they had broken a piece off my sword, and had taken it from me, which I had desired to have again; and, said I, Mr. Cony, I doubt, is in danger, for there is quarrelling within; and I desired to come in, to see what they did with him.

Att. Gen.—Well, Sir, when you came in, what then?

Goring.—Upon this, the master of the house did desire me to go into

a room, and a gentlewoman, his sister, as I afterwards understood, did also press me to go into another room, and promised they would bring Mr. Cony to me; upon which, I went into a room thereby, but it was long before I heard from them; and, being under some impatience, they at last came and told me, "Now, Sir, you may go in, if you please." When I came in, I found a gentleman lying along upon the chairs, and nobody else in the room; I began to be suspicious, for I was then, as I thought, somewhat soberer, that he had some wound, and took the candle, and walked about him, and would fain have awakened him, but could not, by all my endeavours; the drawer told me he was only dead drunk, and would, in a little time, come to himself; upon which, I desired them to lay some blankets upon him, and some pillows under him, and set some more chairs, to make the place broader, that he might not fall down, and I ordered the drawer to be sure to watch with him till he awaked, and make a good fire, which he promised to do. The next day, Mr. Cony sent to my lodging, to come and see him; but I did not that day, because I did go out early, and did not return till late; but the very next day after (being Tuesday), when I came to him, "Harry," said he, "I was very much abused the other night in my Lord's company." I am sorry for that, said I, with all my heart; and asked him how he came to be abused. "My Lord of Pembroke," said he, "threw me down, and there somebody trod upon me and kicked me, and he shall know that he has abused me, and that I expect satisfaction for it: I hope you will let him know so much, and carry him a challenge from me." Mr. Cony, said I, who did tread upon you? "I know not," said he, "for I was in a swoon; either my Lord of Pembroke, or some of his creatures for him. I never had the honour to know my Lord of Pembroke before, nor above one or two of the gentlemen that were with him then in the company."

Att. Gen.—Sir, had you any discourse with him afterwards?

Goring.—Yes, every day, till Thursday, at night.

Att. Gen.—Did he complain of much pain?

Goring.—Yes, constantly, in his stomach, his sides, and his shoulders.

Att. Gen.—What did he tell you was the cause of his death?

Goring.—He said it was my Lord of Pembroke that had done him the injury, in throwing him down; who trod upon him, or kicked him, he could not tell, but said, my Lord should answer for it to him.

Att. Gen.—Then we desire Mr. Savage may be examined: Mr. Savage, pray do you acquaint his Grace, and my Lords, what you know of this business.

Savage.—May it please your Grace, I was in company with my Lord of Pembroke, at Mr. Long's house, in the Haymarket, when Mr. Cony came in, and making a great noise at the bar, my Lord of Pembroke being in a lower room, looked out at the door, and, seeing who it was, my Lord saluted him very kindly, and told him he was glad to see him, and desired him to walk into his room. Mr. Cony told him he had a friend at the door, and desired his Lordship to admit him, which my Lord embraced very kindly: and then Mr. Cony goes to the door and calls Mr. Goring, desiring him to come in, and they came together into the room; my Lord desired him to sit down, and drink a glass of wine, which they did, and after some time, falling into discourse, Mr. Goring began to make use of some impertinent language to my Lord, and, amongst the rest, told him he was as good, or a better gentleman than he was.

Att. Gen.—Goring did?

Savage.—Yes, Goring did; upon which, my Lord threw a glass of wine in his face, and immediately stepped back, and drew his sword: Mr. Goring was going to draw, but I came up to him, and took his sword from him, and broke a piece off it, and, upon my persuasion, my Lord put up his sword again; but, for fear there might be more words, I took Mr. Goring in my arms, and shoved him out of the room; and, whilst I was thrusting him out of doors, I heard a noise of a bustle behind me, and, leaving the drawer to keep Mr. Goring out, I saw my Lord of Pembroke strike Cony with his right hand, who immediately fell down, and then gave him a kick; and so upon that, finding him not stir, I took Mr. Cony, being on the ground (I and my Lord together, for I was not strong enough to do it myself), and laid him on the chairs, and covered him up warm, and so left him.

The medical witnesses who were called, and who had attended the unfortunate man in his illness, proved that he had died of the wounds and bruises he had received.

The Earl of Pembroke did not make any address to the jury in answer to the charge, and only called two or three medical men to shew, that Cony had died from natural causes, and not from the injuries he had done to him.

The majority of the peers present, found the Earl guilty of manslaughter; upon which he claimed his privilege of peerage; this was granted, and he was discharged.

The danger he had run on the present occasion,—for he was in some

danger, inasmuch as if, instead of manslaughter, he had been found guilty of murder, his peerage would not have saved him—did not cure the Earl of Pembroke of his taste for tavern revelries Before the expiration of the same year in which he had been tried, he gave his brethren of the peerage some further trouble in a new *escapade*, happily of less tragical issue.—The particulars will be best gathered from the following entries which are found in the Lords' Journals :—

"November, 27.—The House being informed of a quarrel which happened lately between the Earl of Pembroke and the Earl of Dorset; it is ordered, that the Gentleman Usher of the Black Rod do give notice to the Earl of Pembroke, that he attend this House presently; and that Mr. Lloyd and the footman be summoned to appear presently, to give this House an account thereof.

"In the meantime, the Earl of Dorset gave the House an account, that on Wednesday last, late at night, the Earl of Pembroke sent one Mr. Lloyd, who told him, that the Earl of Pembroke desired to speak with him, at Locket's house. The Earl of Dorset asked whether the Earl of Pembroke was sober; and was answered, Yes. And when his Lordship came, he found the Earl of Pembroke in a low room; who told him that he had done him an injury; therefore he would fight him. The Earl of Dorset asked him, Where and when? The Earl of Pembroke told him, Now, in this room: and then laid violent hands upon him. The Earl of Pembroke's footman took away his sword from his side; but Mr. Lloyd closed in and parted them: and so his Lordship got loose from him.

"The Earl of Pembroke being come, standing in his place, the Lord Chancellor told him what an account the Earl of Dorset had given to the House.

"The Earl of Pembroke said, he remembered no such thing; but confessed he desired to speak with the Earl of Dorset about business, but had no intent of fighting; and that the Earl of Dorset had two men with him, and that his own servant took his sword away.

"The House directed the Earl of Dorset to relate again, in the presence of the Earl of Pembroke, what passed between them. Then both these Lords withdrew themselves. The House, taking this business into consideration, and how much the honour of this House was concerned therein, made these orders following :—

"For the better preservation of the peace, and preventing any mischief which may happen between the Earl of Pembroke and the Earl of Dorset, it is ordered, by the Lords Spiritual and Temporal in Parliament as-

sembled, that the Earl of Pembroke and the Earl of Dorset be, and are hereby, confined to their respective houses or lodgings, till further order; and that they, or either of them, send not any message or write to the other during their confinement.

"Ordered, by the Lords Spiritual and Temporal in Parliament assembled, that Mr. Lloyd, an officer in Sir Charles Wheeler's regiment, and the footman who waited on the Earl of Pembroke, and the two footmen who waited on the Earl of Dorset, at Locket's ordinary on Monday night last, and Robin, the waiter at the said ordinary, be, and are hereby required to attend at the bar of this House to-morrow, at ten o'clock in the forenoon.

"Then the Earl of Pembroke and the Earl of Dorset were again called to their places. And the Lord Chancellor declared to them what the House had ordered; and laid on them the commands of the House, not to resent anything further concerning this business.

"November 28.—This House being moved by the Duke of Bucks on behalf of the Earl of Pembroke and the Earl of Dorset, now under confinement by order of this House, by reason of some difference between them, occasioned by the Earl of Pembroke, who remembered not what he did say or do to the Earl of Dorset on Monday night last, but is very sorry for the provocation then offered, and prays he may be discharged from the confinement he lies under, and have leave to retire to his house at Wilton.

"The Earl of Dorset also declaring that he is satisfied concerning this matter; and prays that he may be no longer under confinement: it is ordered, by the Lords Spiritual and Temporal in Parliament assembled, that the confinement the Earl of Dorset is under be taken off; and also the confinement under which the Earl of Pembroke is, who hath hereby leave given him to retire himself to his house at Wilton."

The person with whom the Earl of Pembroke got into collision in this, his last recorded drunken outbreak, was Charles Sackville, Earl of Dorset, the celebrated wit and poet. He had just come to the title of Dorset by the death of his father, but had been a few years before created Earl of Middlesex, upon succeeding to the estates of his uncle, the brother of his mother, who had borne that title.

Whether the Earl took the broad hint to withdraw himself from the temptations of the metropolis does not appear. He died in 1683, when his two earldoms went to a third brother, Thomas, a nobleman who restored the ancient reputation of the family, and who, beside the high offices

he filled in the state—of Lord High Admiral, and afterwards Lord Lieutenant of Ireland—and his distinction in the world of literature and science, which procured him the chair of the Royal Society, is especially memorable as the collector of the assemblage of sculptures and other antiquities, which has ever since given a new celebrity to the fine old seat of Wilton, already renowned for its pictures, and for its having been there that Sidney is believed to have written the greater part of his Arcadia. The titles have since descended in his line. Earl Philip, however, by his wife Henrietta de Querouaille, a younger sister of the notorious Duchess of Portsmouth—who survived her husband nearly half a century—left a daughter, who married the second and last Lord Jeffreys, son of the Chancellor, and by him became the mother of Henrietta Louisa, Countess of Pomfret, the authoress of the Letters, and the ancestress of the present noble family of that title.

THE ABDUCTION OF MISS WHARTON, AN HEIRESS, BY SIR JOHN JOHNSTON AND OTHERS.

It is difficult to now find a detailed account of this extraordinary affair, which created a great sensation at the time it occurred. The parties implicated, as well as the lady injured, were all persons of consequence. The unhappy fate of Sir John Johnston presents a sad record of the blood-thirsty nature at that period of our criminal code.

Sir John Johnston, was the scion and knightly representative of the family of Johnston of that Ilk, and of Caskieben, in the shire of Aberdeen.

The surname of Johnston is of great antiquity in Scotland, and must be familiar to every one conversant with the history of that kingdom. The lineage of this race was of old proverbially honourable ;—in the ancient rhyme on the characters of Scottish families, to this day popular in some parts of the country, they are designed "The gentle Johnstons."

The two families of Johnston of that Ilk, and of Caskieben, and Johnston of that Ilk in Annandale, long disputed the title to the chiefship of the name. The pretensions of the latter proceeded on the assumption that Stephen de Johnston, the founder of the family of Caskieben, was a cadet of the Annandale branch, while the Johnstons of Caskieben, always maintained that he was the head or chief of the name.

On this point, Douglas, in the Peerage of Scotland, merely says, "There were two families of this surname, who both designed themselves by the title of that Ilk, viz. those of Annandale in the south, and Caskieben in the north; but we cannot pretend to connect them with one another."

In the Baronage, however, in treating of the family of Caskieben, he says, "They have been long designed *de eodem*, or of that Ilk, which appellation generally denotes head or chief of a clan."

George Johnston, the grandfather of Sir John, the subject of the trial, was created a Knight Baronet of Nova Scotia, by Charles I., and was a stanch cavalier. The grandson, Sir John Johnston, was the third baronet.

Playfair, in his Baronetage, thus speaks of Sir John Johnston, and his unfortunate participation in the abduction.

"Sir John Johnston, the third baronet, entered early into the army, and having served in King William's wars in Flanders, was afterwards a captain under that monarch at the battle of the Boyne. He had the misfortune to assist his friend, the Honourable Captain James Campbell, in carrying off and marrying Miss Mary Wharton, a young and rich heiress, related to Lord Wharton, the great favourite of King William, who obtained a proclamation, offering a reward for apprehending them. Campbell escaped into Scotland; Sir John was not so fortunate, for he was betrayed by his landlord, for fifty pounds, tried at the Old Bailey, condemned, and executed in December, 1690, although it appeared upon his trial, by the evidence of the clergyman who performed the marriage ceremony, and the people of the house in which they lodged, and where they remained two days, as well as by Miss M. Wharton's own letter to her aunt, acquainting her of her marriage, that there was no force used, but that she freely consented to it. His defence and whole deportment upon the occasion were very affecting; he was a brave man, and certainly fell a sacrifice to the times.

"The marriage was dissolved by act of Parliament, and Captain Campbell, afterwards designed of Mamore, married in Scotland, and became the father of General Campbell, afterwards Duke of Argyle. Sir John Johnston, having never been married, was succeeded by his cousin and heir male, John, son of his uncle John, of New Place."

Playfair is not correct in calling Captain Campbell the Campbell of Mamore. Campbell of Mamore was his elder brother. Douglas, in his "Peerage of Scotland," gives, as follows, the right account of this Captain James Campbell, who carried off Miss Wharton.

"The Hon. James Campbell of Burnbank and Boquhan, fourth son of Archibald, ninth Earl of Argyll, was, on the 17th of May, 1685, confined in the Castle of Edinburgh, that he might not join his father. On the 4th of November, 1690, he, with the assistance of Archibald Montgomery, and Sir John Johnston of Caskieben, in Aberdeenshire, Bart., forcibly carried off Mary, daughter of Sir George Wharton, a girl of thirteen, with an estate of £1500 per annum, from her mother's house

in Great Queen Street, and had the ceremony of marriage performed, and passed with her two nights. The marriage was annulled by act of Parliament, which received the royal assent, 20th December, 1690; and Sir John Johnston was executed at Tyburn for abetting the abduction, on the 23rd of the same month. Mr. Campbell escaped, was a captain of dragoons, afterwards attained the rank of colonel, and was elected member of Parliament for Campbelltown, 1708. He married the Hon. Margaret Lesley, third daughter of David, first Lord Newark, and had issue. One of his daughters, Anna, was born at Edinburgh, 18th December, 1696; his daughter, Mary, left her estate of Boquhan, in Stirlingshire, to her cousin General Henry Fletcher, of Salton; and no male descendants of his body are in existence."

In the continuation of Rapin's History of England, the following notice is taken of this event. "During this session of Parliament (3 William and Mary) happened an incident which made a great noise. Captain James Campbell, brother to the Earl of Argyll, assisted by Mr. Archibald Montgomery and Sir John Johnston, on the 14th November, forcibly seized on Miss Mary Wharton, daughter and heiress of Sir George Wharton, a fortune, it is said, of £50,000, and about thirteen years of age. She was carried away from her relations in Great Queen Street, and married against her will.

"The next day, his majesty issued his royal proclamation, for apprehending Mr. Campbell and the abettors of this unwarrantable action, and Sir John Johnston being apprehended, was tried, condemned, and executed at Tyburn, notwithstanding great application was made to the King and the relations of the bride to save his life; which was thought the harder, as it appeared upon his trial, Miss Wharton had given evident proofs that the violence Captain Campbell used was not so much against her will as her lawyers endeavoured to make it. Not long before this there was a bill brought into the House of Commons to prevent clandestine marriages, which it was thought this incident would have accelerated, but it was dropped. However, another bill was brought into the House of Commons on the 4th day of December, to render void the marriage between Miss Wharton and Mr. Campbell, which, notwithstanding the Earl of Argyll petitioned against it, passed both houses the 13th of December."

Sir John Johnston, as above mentioned, was tried for this abduction at the Old Bailey, on the 11th of December, 1690.

The evidence was in substance, that Miss Mary Wharton, being an

heiress of considerable fortune, and under the care of her guardian, (Mr. Bierly,) was decoyed out on the 10th of November, and being met with by Sir John Johnston, Captain Campbell, and Mr. Montgomery, in Queen Street, was forced into a coach with six horses, (appointed to wait there by Captain Campbell,) and carried to the coachman's house, and there married to Captain Campbell, against the consent of herself, or knowledge of her guardian. The jury having found the prisoner guilty, he received sentence of death.

At the place of execution, Sir John addressed the spectators in a long speech, in which he not only endeavoured to make it appear he was blameless in the transaction for which he suffered, but that he had been greatly wronged by printed papers, in which he was charged with other offences. He was executed at Tyburn, the 23rd of December, 1690.

Miss Wharton afterwards married Colonel Bierly, who commanded a regiment of horse in the service of William III.

The following ballad, entitled "Captain Johnstoun's Last Farewell," was composed, it is believed, the year after Sir John's death. As already stated, the hero of the piece had been betrayed by a treacherous landlord.

Good people all, where'er you be,
  That hear my dismal doom,
Have some regard to pity me,
  Who now, alas! am come
To die an ignominious death,
  As it doth well appear,
For I declare, with my last breath,
  Your laws are most severe.

In Scotland I was bred, and born,
  Of noble parents there,
Good education did adorn
  My life, I do declare.
No crime did e'er my conscience stain,
  Till I had ventured here,
Thus have I reason to complain,
  Your laws are most severe.

In Flanders I have faced the French,
  And likewise in Ireland,
Still eagerly pursued the chase,
  With valiant heart and hand:

Why was I not in battle slain,
Rather than suffer here
A death which mortals do disdain?
Your laws are most severe.

I did not hurt or wrong intend
I solemnly protest,
But merely to assist a friend
I granted his request—
To free his lady out of thrall,
His joy and only dear,
And now my life must pay for all—
Your laws are most severe.

In coming to my native land
At this unhappy time,
Alas! I did not understand
The nature of the crime;
I therefore soon did condescend,
As it doth well appear,
Wherein I find I do offend—
Your laws are most severe.

In the same lodgings where I lay,
And lived at bed and board,
My landlord did my life betray
For fifty pounds reward;
And being into prison cast,
Altho' with conscience clear,
I was arraigned at the last—
Your laws are most severe.

This ladye would not hear my moan,
While dying words I sent;
Her cruel heart, more hard than stone,
Would not the least relent;
But triumphing in my wretched state,
As I do often hear,
I fall here by the hand of fate—
Your laws are most severe.

Will not my good and gracious king
Be merciful to me?
Is there not in his breast a spring
Of princely clemencie?

No! not for me, alas! I die —
My hour is drawing near —
To the last minute I will cry,
Your laws are most severe.

Farewell, dear countrymen (said he)
And this tumultuous noise,
My soul shall now transported be
To more celestial joys:
Tho' in the blossom of my youth,
Pale death I do not fear,
Unto the last I speak the truth —
Your laws are most severe.

Alas! I have not long to live,
And therefore now, (said he,)
All those that wronged me I forgive,
As God will pardon me:
My landlord and his subtle wife,
I do forgive them here;
Farewell this transitory life —
Your laws are most severe.

THE DUEL BETWEEN MR. THORNHILL AND SIR CHOMELEY DERING.

THE Derings of Kent are a family of Saxon origin, and one of the oldest in the realm. A baronetcy was conferred on this ancient house in 1626. Sir Cholmeley Dering, the unfortunate victim of this duel, was the fourth baronet, and a M.P. for Kent. He was the direct ancestor of Sir Edward Dering, the present baronet.

The facts which led to the fatal duel in question, are these :—

Sir Cholmeley Dering and Mr. Thornhill, had dined together on the 7th of April, 1711, in company with several other gentlemen, at the Toy, at Hampton Court, where a dispute arose.

During the quarrel, Sir Cholmeley struck Mr. Thornhill, and a scuffle ensuing, the wainscot of the room broke down, and Thornhill falling, the other stamped on him, and beat out some of his teeth. The company now interposing, Sir Cholmeley, convinced that he had acted improperly, declared that he was willing to ask pardon ; but Mr. Thornhill said, that asking pardon was not a proper satisfaction for the injury that he had received ; adding, "Sir Cholmeley, you know where to find me." Soon after this the company broke up, and the parties went home in different coaches, without any farther steps being taken towards their reconciliation.

On the 9th of April, Sir Cholmeley went to a coffee-house at Kensington, and asked for Mr. Thornhill, who not being there, he went to his lodgings, and the servant shewed him to the dining-room ; to which he ascended with a brace of pistols in his hands, and soon afterwards Mr. Thornhill coming to him asked him if he would drink tea, which he declined, but drank a glass of small beer.

After this the gentlemen ordered a hackney-coach, in which they went to Tothill-fields, and there advanced towards each other, in a resolute manner, and fired their pistols almost at the same moment.

Sir Cholmeley, being mortally wounded, fell to the ground : and Mr. Thornhill, after lamenting the unhappy catastrophe, was going away,

when a person stopped him, told him he had been guilty of murder, and took him before a justice of the peace, who committed him to prison.

On the 18th of May, 1711, Richard Thornhill, Esq., was indicted at the Old Bailey Sessions for this murder. In the course of the trial, the above facts were proved, and a letter was produced of which the following is a copy :—

"April 8th, 1711.

"SIR,—I shall be able to go abroad to-morrow morning, and desire you will give me a meeting, with your sword and pistols, which I insist on. The worthy gentleman who brings you this, will concert with you the time and place. I think Tothill-fields will do well; Hyde-park will not, at this time of year being full of company.

I am, your humble Servant,

RICHARD THORNHILL."

Mr. Thornhill's servant swore, that he believed this letter to be his master's hand-writing; but Mr. Thornhill hoped the jury would not pay any regard to this testimony, as the boy acknowledged in court that he never saw him write.

Mr. Thornhill called several witnesses to prove how ill he had been used by Sir Cholmeley; that he had languished some time of the wounds he had received, during which he could take no other sustenance than liquids, and that his life was in imminent danger.

Several persons of distinction testified that Mr. Thornhill was of a peaceable disposition, and that, on the contrary, the deceased was of a remarkably quarrelsome temper. On behalf of Mr. Thornhill, it was farther deposed, that Sir Cholmeley being asked if he came by his hurt through unfair usage, he replied, "No: poor Thornhill! I am sorry for him; this misfortune was my own fault, and of my own seeking. I heartily forgive him, and desire you all to take notice of it, that it may be of some service to him; and that one misfortune may not occasion another."

The jury acquitted Mr. Thornhill of the murder, but found him guilty of manslaughter; in consequence of which he was burnt in the hand.

THE TRIAL OF DR. DODD.

Among the numerous deaths which took place in England under the former cruel forgery statutes, there is not one more lamentable than the execution of the Rev. William Dodd. It is impossible to read the narrative of his unhappy fate without the deepest sorrow—without feeling that, whatever might have been his guilt, he fell the victim of a merciless prosecution, and of a merciless and unreasonable rigour in the consummation of the sentence of the law.

The Rev. William Dodd, D.D., was Prebendary of Brecon, Chaplain in Ordinary to his Majesty, and Minister to the Magdalen Hospital. He also stood high in the estimation of the public as a divine, a popular preacher, and an elegant scholar. He was the promoter of many public charities, and of some he may be said to have been the institutor. The Magdalen for reclaiming young women who have swerved from the path of virtue; the Society for the Relief of Poor Debtors, and that of the Humane Society, for the recovery of persons apparently drowned, owe their institution to Dr. Dodd. He was patronized by the King, and more immediately by Lord Chesterfield, and his church preferments were lucrative; but his expenses outran his income, which induced him to commit this forgery on his former pupil, the Earl of Chesterfield.

Another singular circumstance in the life of Dr. Dodd was, his publication, a few years previous to his execution, of a sermon, intituled, "The frequency of Capital Punishments inconsistent with justice, sound policy, and religion." This, he says, was intended to have been preached at the Chapel Royal, St. James's, but omitted on account of the absence of the court during the author's month of waiting.

The following extract will exhibit the unfortunate man's opinion on this subject. He writes thus:—

"It would be easy to shew the injustice of those laws which demand blood for the slightest offences; the superior justice and propriety of in-

flicting perpetual and laborious servitude; the greater utility hereof to the sufferer as well as to the state, especially wherein we have a variety of necessary occupations, peculiarly noxious and prejudicial to the lives of the honest and industrious, and in which they might be employed who had forfeited their lives and their liberties to society."

The Earl of Chesterfield, who, to say the least, took so unkind a part in this prosecution, was Philip Stanhope of Mansfield Woodhouse, who succeeded his relative, the great Lord Chesterfield, as fifth Earl, on the 24th March, 1773. By his second wife Henrietta, daughter of the first Marquis of Bute, he was father of his successor, the present Earl of Chesterfield.

The forgery committed by Dr. Dodd, was this. The doctor being in want of cash to pay his tradesmen's bills, and having been preceptor to the Earl of Chesterfield, he pretended that his lordship had an urgent occasion to borrow £4200, but did not choose to be his own agent, and begged that the matter might be secretly and expeditiously conducted. He employed Mr. Robertson, a broker, to whom he presented a bond not filled up or signed, that he might find a person who would advance the requisite sum to a young nobleman who had lately come of age. After applying to several persons who refused the business, because they were not to be present when the bond was executed, Mr. Robertson, absolutely confiding in the doctor's honour, applied to Messrs. Fletcher and Peach, who agreed to lend the money. Mr. Robertson returned the bond to the doctor in order to its being executed; and on the following day the doctor produced it as executed, and witnessed by himself. Mr. Robertson, knowing Mr. Fletcher to be a particular man, and who would consequently object to one subscribing witness only, put his name under the doctor's. He then went and received the money, which he paid into the hands of Dr. Dodd, £3000 in notes of Sir Charles Raymond and Co., the remaining £1200 in bank-notes. The money being thus obtained, the doctor gave Mr. Robertson, £100 for his trouble, and paid some of his own debts with a part of the remainder.

It appears that the doctor intended to replace the money and pay off the bond, in a short time, without the knowledge of any person but the broker, and the gentlemen of whom the money had been borrowed. It happened, however, that the bond being left with Mr. Manly, (attorney for Messrs. Fletcher and Peach) he observed, in the writing of the condition, a remarkable blot in the first letter E in the word SEVEN, which did not seem to be the effect of chance, but done with design. He thought it odd, but did not suspect a forgery; yet he shewed Mr. Fletcher the

bond and blot, and advised him to have a clean bond filled up and carried to Lord Chesterfield for execution. Mr. Fletcher consented; and Mr. Manly went the next day to his lordship, who, having previous notice of the intended business, asked him if he had called about the bond. Mr. Manly said he had; and his lordship answered, I have burnt the bond. This appeared very extraordinary, but was soon explained by Lord Chesterfield's saying, he thought the gentleman had called about a bond for £500 which he had given some years before, and had taken up and burnt. When Mr. Manly produced the bond in question, Lord Chesterfield was surprised and immediately disowned it. Upon this Mr. Manly went directly to Mr. Fletcher to consult what steps to take. Mr. Fletcher, a Mr. Innes, and Mr. Manly, went to Guildhall to prefer an information respecting the forgery, against the broker and Dr. Dodd. Mr. Robertson was taken into custody, and with Fletcher, Innes, Manly, and two of the Lord Mayor's officers, went to the house of the doctor in Argyle-street.

They opened the business, and the doctor was very much struck and affected. Manly told him, if he would return the money, it would be the only means of saving him. He instantly returned six notes of £500 each, making £3000; he drew on his banker for £500; the broker returned £100; and the doctor gave a second draft on his banker for £200, and a judgment on his goods for the remaining £400, which judgment was immediately carried into execution. All this was done by the doctor in full reliance on the honour of the parties, that the bond should be returned to him cancelled; but notwithstanding this restitution, he was taken before the lord mayor, and charged as above mentioned. The doctor declared he had no intention to defraud Lord Chesterfield, or the gentlemen who advanced the money. He hoped that the satisfaction he had made, in returning the money, would atone for his offence. He was pressed, he said, exceedingly, for £300 to pay some bills due to tradesmen. He took this step as a temporary resource, and would have paid it in half a year. My Lord Chesterfield, added he, cannot but have some tenderness for me, as my pupil. I love him and he knows it. There is no one wishes to prosecute. I am sure my Lord Chesterfield don't want my life—I hope he will shew clemency to me. Mercy should triumph over justice. Clemency, however, was denied; and the doctor was committed to the Compter, in preparation for his trial. On the 19th of February, 1777, Dr. Dodd, being put to the bar at the Old Bailey, addressed the court in the following words:—

"My Lords,—I am informed that the bill of indictment against me has been found on the evidence of Mr. Robertson, who was taken out of

Newgate without any authority or leave from your lordships, for the purpose of procuring the bill to be found. Mr. Robertson is a subscribing witness to the bond, and as I conceive, would be swearing to exculpate himself, if he should be admitted as a witness against me; and as the bill has been found upon his evidence, which was surreptitiously obtained, I submit to your lordships that I ought not to be compelled to plead on this indictment: and upon this question I beg to be heard by my counsel. My lords, I beg leave also further to observe to your lordships, that the gentlemen on the other side of the question are bound over to prosecute Mr. Robertson."

Previous to the arguments of the counsel, an order, which had been surreptitiously obtained from an officer of the court, dated Wednesday, Feb. 19th, and directed to the keeper of Newgate, commanding him to carry Lewis Robertson to Hick's-hall in order to give evidence before the grand inquest on the present bill of indictment; likewise a resolution of the court, reprobating the order; and also the recognizance, entered into by Mr. Manly, Mr. Peach, Mr. Innes, and the right hon. the Earl of Chesterfield, to prosecute and give evidence against Dr. Dodd and Lewis Robertson, for the forgery, were ordered to be read: and the clerk of the arraigns was directed to inform the court whether the name Lewis Robertson was indorsed as a witness on the back of the indictment, which was answered in the affirmative. The counsel now proceeded in their arguments for and against the prisoner. Mr. Howarth, one of Dr. Dodd's advocates, contended that not any person ought to plead or answer to an indictment, if it appeared upon the face of that indictment that the evidence upon which the bill was found was not legal, or competent to have been adduced before the grand jury. Mr. Cooper, counsel on the same side, followed this idea, and hoped that Dr. Dodd might not be called on to plead to the bill of indictment, and that the bill might be quashed. That great lawyer, Francis Buller, likewise argued, most ably, on the same side.

Mr. Mansfield, and the other counsel employed for the prosecution, replied to these arguments with equal ingenuity and professional knowledge. It was now agreed on, that the trial should be proceeded in; and that the question respecting the competency of Robertson's evidence, be reserved for the opinion of the twelve judges. Hereupon Dr. Dodd was indicted for forging a bond for the payment of £4200, with intent to defraud certain parties mentioned in the indictment, and the facts already stated were sworn to by the respective witnesses. When the evidence was gone through, the court called upon the doctor for his defence, which was as follows:—

"My Lords and Gentlemen of the Jury,—Upon the evidence which has this day been produced against me, I find it very difficult to address your lordships: there is no man in the world who has a deeper sense of the heinous nature of the crime for which I stand indicted than myself. I view it, my lords, in all its extent of malignancy towards a commercial state like ours; but, my lords, I humbly apprehend, though no lawyer, that the moral turpitude and malignancy of the crime always, both in the eye of the law, of reason, and of religion, consist in the intention. I am informed, my lords, that the act of parliament on this head runs perpetually in this style, *with an intention to defraud.* Such an intention, my lords and gentlemen of the jury, I believe, has not been attempted to be proved upon me, and the consequences that have happened, which have appeared before you, sufficiently prove that a perfect and ample restitution has been made. I leave it, my lords, to you, and the gentlemen of the jury, to consider, that if an unhappy man ever deviates from the law of right, yet, if in the single first moment of recollection he does all he can to make a full and perfect amend, what, my lords and gentlemen of the jury, can God and man desire further? My lords, there are a variety of little circumstances too tedious to trouble you with, with respect to this matter. Were I to give a loose to my feelings, I have many things to say which I am sure you would feel with respect to me: but, my lords, as it appears on all hands, as it appears, gentlemen of the jury, in every view, that no injury, intentional or real, has been done to any man upon the face of the earth, I hope that therefore you will consider the case in its true state of clemency. I must observe to your lordships, that though I have met with all candour in this court, yet I have been pursued with excessive cruelty; I have been prosecuted after the most express engagements, after the most solemn assurances, after the most delusive soothing arguments of Mr. Manly; I have been prosecuted with a cruelty scarcely to be paralleled; a person, avowedly criminal in the same indictment with myself, has been brought forth as a capital witness against me; a fact, I believe, totally unexampled. My lords, oppressed as I am with infamy, loaded as I am with distress, sunk under this cruel prosecution, your lordships and the gentlemen of the jury, cannot think life a matter of any value to me: no, my lords, I solemnly protest that death, of all blessings, would be the most pleasant to me after this pain. I have yet, my lords, ties which call upon me; ties which render me desirous even to continue this miserable existence:—I have a wife, my lords, who for twenty-seven years has lived an unparalleled example of conjugal attachment and fidelity, and whose behaviour during this trying scene would draw tears of approbation, I am

sure, even from the most inhuman. My lords, I have creditors, honest men, who will lose much by my death: I hope, for the sake of justice towards them, some mercy will be shewn to me. If, upon the whole, these considerations at all avail with you, my lords, and you gentlemen of the jury; if, upon the most impartial survey of the matters, not the slightest intention of injury can appear to any one; and I solemnly declare it was in my power to replace it in three months; of this I assured Mr. Robertson frequently; and had his solemn assurances that no man should be privy to it but Mr. Fletcher and himself; and if no injury was done to any man upon earth, I then hope, I trust, I fully confide myself in the tenderness, humanity, and protection of my country."

The jury retired for about ten minutes, and then returned with a verdict, that the prisoner was Guilty; but at the same time presented a petition, humbly recommending the doctor to the royal mercy. On the first day of the sessions held at the Old Bailey in May, Dr. Dodd, being put to the bar, was addressed by Mr. Justice Ashton in the following terms:—

"Dr. William Dodd.—When you were brought up in last February sessions to plead to an indictment found by the grand jury of Middlesex for forgery, before you pleaded, or the trial was proceeded upon, a question was submitted to the court by you, with the advice of your counsel, which was reserved for the opinion of the judges; that is, whether you was bound to plead to, and ought to be tried upon, that indictment, as the name of Lewis Robertson, committed for the same forgery, appeared to be indorsed as a witness upon the bill of indictment, and that he had been taken before the grand jury to be examined as a witness, by means of an order directed to the keeper of Newgate, which had been improperly obtained, on the 19th of February, and which was afterwards vacated by the court.

"The judges have met, and have fully considered the whole matter of this objection; and they are unanimously of opinion that the necessity of some proper authority to carry a witness who happened to be in custody before the grand jury to give evidence, regards the justification of the gaoler only; but that no objection lies upon that account in the mouth of the party indicted, for in respect of him the finding of the bill is right, and according to law.

"The judges, therefore, are of opinion, that the proceedings upon that indictment against you are legally had, and that you was thereupon duly convicted according to law. Of this opinion I thought it most proper thus early to apprise you, that you might be prepared for the consequence of it at the close of the sessions."

To this address Dr. Dodd replied in the following terms:—

"My Lord,—I humbly thank your lordship, and the rest of the learned judges, for the consideration you have been pleased to give to the objections made by my counsel on that awful day of my trial; and I rest fully satisfied, my lord, in the justice of your lordships' opinion."

On the last day of the sessions Dr. Dodd was again put to the bar, when the clerk of the arraigns said,—"Dr. William Dodd, you stand convicted of forgery—what have you to say why this court should not give you judgment to die according to law?"

Hereupon Dr. Dodd addressed the court in the following terms:—

"My Lord,—I now stand before you a dreadful example of human infirmity. I entered upon public life with the expectations common to young men whose education has been liberal, and whose abilities have been flattered; and when I became a clergyman I considered myself as not impairing the dignity of the order. I was not an idle, nor, I hope, an useless minister; I taught the truths of Christianity with the zeal of conviction, and the authority of innocence. My labours were approved—my pulpit became popular; and, I have reason to believe, that of those who heard me some have been preserved from sin, and some have been reclaimed.—Condescend, my lord, to think if these considerations aggravate my crime, how much they must embitter my punishment!

"Being distinguished and elevated by the confidence of mankind, I had too much confidence in myself, and thinking my integrity, what others thought it, established in sincerity and fortified by religion, I did not consider the danger of vanity, nor suspect the deceitfulness of my own heart. The day of conflict came, in which temptation seized and overwhelmed me! I committed the crime, which I entreat your lordships to believe that conscience hourly represents to me in its full bulk of mischief and malignity. Many have been overpowered by temptation who are now among the penitent in heaven!

"To an act now waiting the decision of vindictive justice I will not oppose the counterbalance of nearly thirty years (a great part of the life of man) passed in exciting and exercising charity—in relieving such distresses I now feel—in administering those consolations which I now want. I will not otherwise extenuate my offence than by declaring, what I hope will appear to many, and what many circumstances make probable, that I did not intend finally to defraud: nor will it become me to apportion my own punishment, by alleging that my sufferings have been not much less than my guilt. I have fallen from reputation, which ought to have made me cautious, and from a fortune, which ought to have given me content.

I am sunk at once into poverty and scorn: my name and my crime fill the ballads in the streets; the sport of the thoughtless and the triumph of the wicked.

"It may seem strange, my lord, that, remembering what I have lately been, I should still wish to continue what I am: but contempt of death, however speciously soever it may mingle with heathen virtues, has nothing in it suitable to Christian penitence.

"Many motives impel me to beg earnestly for life. I feel the natural horrors of a violent death, the universal dread of untimely dissolution. I am desirous to recompense the injury I have done to the clergy, to the world, and to religion, and to efface the scandal of my crime by the example of my repentance: but, above all, I wish to die with thoughts more composed and calmer preparation.

"The gloom and confusion of a prison, the anxiety of a trial, the horrors of suspense, and the inevitable vicissitudes of passion, leave not the mind in a due disposition for the holy exercises of prayer and self-examination. Let not a little life be denied me, in which I may, by meditation and contrition, prepare myself to stand at the tribunal of Omnipotence, and support the presence of that Judge, who shall distribute to all according to their works—who will receive and pardon the repenting sinner, and from whom the merciful shall obtain mercy!

"For these reasons, my lords, amidst shame and misery, I yet wish to live; and most humbly implore that I may be recommended by your lordship to the clemency of his Majesty."

The recorder now proceeded to pass sentence in the following terms:—

"Dr. William Dodd,—You have been convicted of the offence of publishing a forged and counterfeit bond, knowing it to be forged and counterfeit; and you have had the advantage which the laws of this country afford to every man in that situation, a fair, an impartial, and an attentive trial. The jury, to whose justice you appealed, have found you guilty; their verdict has undergone the consideration of the learned judges, and they found no ground to impeach the justice of that verdict; you yourself have admitted the justice of it; and now the very painful duty that the necessity of the law imposes upon the court, to pronounce the sentence of that law against you, remains only to be performed.

"You appear to entertain a very proper sense of the enormity of the offence which you have committed; you appear to be in a state of contrition of mind, and I doubt not have duly reflected how far the dangerous tendency of the offence you have been guilty of is increased by the influence of example in being committed by a person of your character, and of

the sacred function of which you are a member. These sentiments seem to be yours: I would wish to cultivate such sentiments; but I would not wish to add to the anguish of a person in your situation by dwelling upon it.

"Your application for mercy must be made elsewhere; it would be cruel in the court to flatter you; there is a power of dispensing mercy, where you may apply. Your own good sense and the contrition you express will induce you to lessen the influence of the example, by publishing your hearty and sincere detestation of the offence of which you are convicted; and that you will not attempt to palliate or extenuate, which would indeed add to the degree of the influence of a crime of this kind being committed by a person of your character and known abilities; I would therefore warn you against anything of that kind. Now, having said this, I am obliged to pronounce the sentence of the law, which is—That you, Dr. William Dodd, be carried from hence to the place from whence you came; that from thence you are to be carried to the place of execution, where you are to be hanged by the neck until you are dead."

To this Dr. Dodd replied, Lord Jesus, receive my soul!

The exertions made to save Dr. Dodd were perhaps beyond all example in any country. The newspapers were filled with letters and paragraphs in his favour. Individuals of all ranks and degrees exerted themselves in his behalf: parish officers went in mourning from house to house, to procure signatures to a petition to the king: and this petition, which, with the names, filled twenty-three sheets of parchment, was actually presented. Even the lord mayor and common council went in a body to St. James's to solicit mercy for the convict. As clemency, however, had been denied to the unfortunate Perreaus, it was deemed unadvisable to extend it to Dr. Dodd: it having been observed to his Majesty, that if Dr. Dodd was pardoned, the Perreaus were murdered. This unhappy clergyman was attended to the place of execution, in a mourning coach, by the Rev. Mr. Vilette, ordinary of Newgate, and the Rev. Mr. Dobey.—Another criminal, named Joseph Harris, was executed at the same time. It is impossible to give an idea of the immense crowds of people that thronged the streets from Newgate to Tyburn. When the prisoners arrived at the fatal scene, and were placed in the cart, Dr. Dodd exhorted his fellow-sufferer in so generous a manner as testified that he had not forgotten the duty of a clergyman. He was also very fervent in the exercise of his own devotions.

After his conviction, Dr. Dodd wrote a pathetic address to his fellow prisoners, from which the following is an extract:—

"There is always," says the doctor, "a danger lest men, fresh from a trial in which life has been lost, should remember with resentment and malignity the prosecutor, the witnesses, or the judges. It is scarcely possible, with all the prejudices of an interest so weighty, and so affecting, that the convict should think otherwise than that he has been treated, in some part of the process, with unnecessary severity. In this opinion he is perhaps singular, and, therefore, probably mistaken: but there is no time for disquisition; we must try to find the shortest way to peace. It is easier to forgive than to reason right. He that has been injuriously or unnecessarily harassed, has one opportunity more of proving his sincerity, by forgiving the wrong, and praying for his enemy.

"It is the duty of a penitent to repair, as far as he has the power, the injury he has done. What we can do is commonly nothing more than to leave the world an example of contrition. On the dreadful day, when the sentence of the law has its full force, some will be found to have affected a shameless bravery, or negligent intrepidity. Such is not the proper behaviour of a convicted criminal. To rejoice in tortures is the privilege of a martyr; to meet death with intrepidity is the right only of innocence, if in any human being innocence could be found. Of him whose life is shortened by his crimes, the last duties are humility and self-abasement. We owe to God sincere repentance; we owe to man the appearance of repentance. Men have died with a steadfast denial of crimes, of which it is very difficult to suppose them innocent. By what equivocation or reserve they may have reconciled their consciences to falsehood, it is impossible to know; but if they thought that, when they were to die, they paid their legal forfeit, and that the world had no further demand upon them; that therefore they might, by keeping their own secrets, try to leave behind them a disputable reputation; and that the falsehood was harmless, because none were injured; they had very little considered the nature of society. One of the principal parts of national felicity arises from a wise and impartial administration of justice. Every man reposes upon the tribunals of his country, the stability of possession, and the serenity of life. He, therefore, who unjustly exposes the courts of judicature to suspicion, either of partiality or error, not only does an injury to those who dispense the laws, but diminishes the public confidence in the laws themselves, and shakes the foundation of public tranquillity. For my own part, I confess, with the deepest compunction, the crime which has brought me to this place; and admit the justice of my sentence, while I am sinking under its severity."

During Dr. Dodd's confinement in Newgate, a space of several months,

he also employed his time in the exercise of his pen. The principal of these writings were his Thoughts in Prison, in five parts, from which we give a few extracts. "I begin these Thoughts," says the unhappy man, writing in Newgate, the 23rd of April, 1777, after his conviction, "merely from the impression of my mind, without plan, purpose, or motive, more than the situation of my soul.

"I continued them on a thoughtful and regular plan; and I have been enabled wonderfully, in a state which in better days I should have supposed would have destroyed all power of reflection, to bring them nearly to a conclusion. I dedicate them to God, and the reflecting serious, among my fellow-creatures; and I bless the Almighty for the ability to go through them, amidst the terrors of this dire place (Newgate), and the bitter anguish of my disconsolate mind! The thinking will easily pardon all inaccuracies, as I am neither able nor willing to read over these melancholy lines, with a curious or critical eye. They are imperfect, but in the language of the heart; and had I time and inclination, might, and should, be improved.—But——

(Signed) "W. D."

The unfortunate author's "Thoughts on his Imprisonment," are thus introduced—

"My friends are gone! harsh on its sullen hinge
Grates the dread door—the massy bolts respond
Tremendous to the surly keeper's touch—
The dire keys clang, with movement dull and slow,
While their behest the pond'rous locks perform—
And fasten'd firm, the object of their care
Is to solitude, to sorrow left.

"But wherefore fasten'd? Oh! still stronger bonds
Than bolts, or locks, or doors of molten brass,
To solitude and sorrow could consign
His anguish'd soul, and prison him tho' free!
For whither should he fly, or where produce
In open day, and to the golden sun,
His hapless head! whence every laurel torn;
On his bald brow sits grinning infamy—
And all in sportive triumph twines around
The keen, the stinging arrows of disgrace."

After dwelling on the miseries of that dreary confinement, at sight of which he formerly started with horror, when his duty as a Christian called him to that den to visit it, he adds:

"O dismal change! now not in friendly sort
A Christian visitor to pour the balm
Of Christian comfort in some wretch's ear—
I am that wretch myself! and want, much want,
That Christian consolation I bestow'd,
So cheerfully bestowed! Want, want, my God,
From Thee the mercy, from my fellow man
The lenient mercy, which thou know'st my gladsome soul
Ever sprang forth with transport to impart.

"Why then, mysterious Providence, pursu'd
With such unfeeling ardour? Why pursu'd
To death's dread bourn, by men to me unknown!
Why—stop the deep question; it o'erwhelms my soul;
It reels, it staggers! Earth turns round! My brain
Whirls in confusion! my impetuous heart
Throbs with pulsations not to be restrain'd;
Why?—Where?—O Chesterfield, my son my son!"

Whether the writer is warranted in adopting the last words of David on Absalom, considering the wide difference of their situations, may be questioned; yet great allowance is to be made for him, circumstanced as he was; and so soon after his trial, he must have been more than man, not to have retained some resentment against his prosecutors, especially his pupil, Stanhope, Earl of Chesterfield.

The unfortunate divine then proceeds:

"Nay, talk not of composure! I had thought
In older time, that my weak heart was soft,
And pity's self might break it. I had thought
That marble-eyed Severity would crack
The slender nerves which guide my reins of sense,
And give me up to madness! 'Tis not so;
My heart is callous, and my nerves are tough;
It will not break; they will not crack; or else
What more, just heaven! was wanting to the deed,

Than to behold—Oh! that eternal night
Had in that moment screened from myself!
My Stanhope to behold! Ah! piercing sight!
Forget it; 'tis distraction: speak who can!
But I am lost! a criminal adjudged!"

All must indeed deplore the violent stretch of the law which deprived this gentle and gifted sinner of an existence so full of repentance and atonement.

THE TRIAL OF THE EARL OF KINGSTON FOR SHOOTING COLONEL FITZGERALD.

THIS singularly romantic affair has been so perfectly narrated in a recent very able and amusing work, "The Revelations of Ireland in the Past Generation," by D. Owen Madden, Esq., that we cannot do better than extract the story as the author has there given it.

Mr. Madden writes thus:—

The house of King, as may be seen by any one who consults the Peerage, is very widely connected. Its members had at various periods made fortunate marriages, and towards the end of the last century the family occupied a very high place in English as well as Irish aristocratic society. The first Earl of Kingston [1768] resided at Mitchelstown, close to the towering Galtees, dwelling upon the demesne-lands obtained by his ancestor, on marriage with the daughter of Sir William Fenton.

The eldest son of the first earl was Robert, Viscount Kingsborough,* who was born in 1754. He represented the county of Cork in parliament. In 1769, he married Caroline, only daughter and heiress of Richard Fitzgerald, of Mount Ophaly, in Kildare. Miss Fitzgerald was cousin to Lord Kingsborough, her mother being daughter and heiress of James Baron Kingston. By their marriage the family estates were re-united. It will be observed, that the age of the noble bridegroom was fifteen, and the bride was some years younger.

Lady Kingsborough had a brother, who died without legitimate issue. He left, however, an illegitimate son, Henry Gerald Fitzgerald, who was reared up by Lady Kingsborough with the greatest kindness. She brought him up with her own family. Young Fitzgerald was handsome and distinguished in appearance, tall in stature, and endowed with courage and vigour. His passions were strong, and his temper arrogant and haughty. He was sent into the army, in which, aided by influence, he rapidly rose to the rank of Colonel.

---

* The present Earl is his grandson.

Lord and Lady Kingsborough had a very numerous family. More for the education of her daughter than for the pleasure of fashionable life, Lady Kingsborough lived the greater part of the year in the neighbourhood of London. She employed various masters and governesses in the education of her daughter. Amongst her governesses was no less celebrated a person than Mary Wolstonecroft, afterwards Mrs Godwin. And amongst the daughters entrusted to her care was one of the younger, the Hon. Mary King.*

This young lady possessed a graceful figure, with a soft and pleasing air Her features, without being beautiful, were striking; her countenance was artless; her appearance was rendered more remarkable by the extreme length and great beauty of her hair, of which she had an extraordinary profusion. In fact she was not ill qualified, by personal appearance, for the part of a heroine—and hers is a singular tale.

Colonel Fitzgerald resided with his wife, a very beautiful woman, at Bishopsgate, up the Thames. He was constantly in the company of Miss King, whose affections he succeeded in completely gaining, without exciting any suspicion in the minds of her family. Strangers, however, noticed the attention which he paid her. It was said that his designs upon Miss King were talked of amongst the musical performers hired for the balls and parties frequented by the family. But the fact of Colonel Fitzgerald being a married man, and his connexion with their family, blinded the household of Lord and Lady Kingsborough, and lulled all suspicions.

In the summer of 1797, Miss King suddenly disappeared. The family were struck with consternation, when the contents of a note left upon her dressing-table were made known. It was there stated, in her own handwriting, that she was about to throw herself into the Thames! A search was made. For two or three days the servants of Lord Kingsborough dragged the river near the house. Her bonnet and shawl were found upon the bank. The worst fears of the family respecting the suicide, as they conceived, seemed realized.

But there were some private circumstances which made her father alone, of all the family, disbelieve the notion that she had committed suicide. Vague suspicions of the nature of the case passed through his mind. The result of personal inquiries confirmed him in his idea, that his daughter was still alive. A postboy informed him of a curious fact. While taking

* Another governess in this family was the learned Miss Elizabeth Smith.—See her Life, and extract from her correspondence, in "Memoirs of Literary Women."

a gentleman in a post-chaise to London, he saw a young lady walking by herself upon the road. Her manner and appearance attracted his notice. The gentleman desired him to stop. A seat was offered to the young lady, who accepted it without any hesitation. When they arrived in town, the lady went away in company with the gentleman.

On comparing facts and dates, Lord Kingsborough felt certain that the young lady seen by the postboy was his own daughter. He easily divined that she had eloped. But in company with whom? That question now became the subject of inquiry. He resolved to endeavour to gain tidings of her. Advertisements and placards were posted all over London, offering a reward for any intelligence respecting her.

It was suggested by some, that Colonel Fitzgerald was accessary to her elopement; but the Colonel denied the charge indignantly. He counterfeited the part of an innocent man with the greatest skill. No one could divine by his manner that he knew aught concerning the mysterious disappearance of Miss King. He affected to know nothing whatever of her, and even went so far as to pretend to assist the family in their researches. Day after day he used to go to Lord Kingsborough, and inquire with eagerness whether any intelligence had been received. And he would then sit in consultation with the family and friends, listening to the vain regrets of the afflicted parents, and the fruitless suggestions of their grieved relatives.

The case attracted great attention. Though at that period public events occupied more attention than at present, though the French Revolution and its horrors had satiated the lovers of the wonderful with the romance of life, still the fact of a nobleman's daughter suddenly disappearing, and the variety of strange reports in circulation respecting her, arrested the public notice. The subject was discussed at every dinner-table in the metropolis.

The way in which news was first received of Miss King was very strange. One day a servant-girl waited upon Lady Kingsborough, and said that she thought she could give some information. It seemed that she was a servant at a lodging-house in Clayton-Street, Kennington. About the time of Miss King's disappearance, a young lady had been brought by a gentleman to the lodging-house. He visited her constantly; the servant described her as being very handsome, and as having had a great profusion of hair. The girl had read the advertisements offering a reward for intelligence, and the statement of Miss King having remarkably long hair, caught her notice; her suspicions were immediately excited, when on going into the fair lodger's room one day, she found the young lady in the

act of cutting off her hair. The servant remarked what handsome hair it was, and resolved to give information.

While she was in the act of detailing her intelligence to the Kingsborough family, the door of the apartment opened, and in walked Colonel Fitzgerald, to pay his usual visit of affected sympathy! He suspected nothing, not noticing the servant. The girl, however, suddenly exclaimed, "Why there's the very gentleman who visits the young lady!" pointing to the colonel. The bystanders were amazed; Fitzgerald himself was confounded at the suddenness of his detection; his habitual presence of mind deserting him, he literally *ran* from the apartment.

When his villany was thus discovered the indignation of the King family knew no bounds. The hypocrisy he had displayed added to the atrocity of his conduct in the abduction of Miss King. To have seized upon a young and inexperienced girl, would have been bad conduct in any man, but the conduct of Colonel Fitzgerald was indelibly blackened by the perfidy he had exhibited towards a noble family that had always treated him with the utmost liberality. He, to have decoyed Miss King; he, who had been brought up at her father's table—who had lived on terms of equality in the house—whose unhappy birth had been generously overlooked by Lady Kingsborough—he, the creature of the bounty and munificence of Lord and Lady Kingsborough—to have been guilty of such fiendish ingratitude, was wickedness both enormous and revolting!

Colonel King (now Lord Lorton) sought Fitzgerald, to have a hostile meeting with him. The Colonel chose for his second Major Wood, of Ashford; but Fitzgerald frankly told Major Wood, that in consequence of the odium thrown upon his character, it was probable that he could find no second. On Sunday morning, the 1st of October, 1797, according to an arranged plan, the parties met near the Magazine in Hyde Park. Colonel Fitzgerald was previously met near Grosvenor-gate, unaccompanied by any friend. He said on the previous day, that he was so sensible of Major Wood's honour, that he was perfectly ready to meet Colonel King without a second. On meeting him again the next morning, in the Park, Major Wood asked him where was his second, and Fitzgerald replied that he could not find one, professing at the same time his readiness to meet Colonel King. The surgeon, brought to the ground by Fitzgerald, was then applied to, but he refused, saying, however, that he would remain in view. Colonel King was, in the meanwhile, most anxious that nothing should stop the business. Major Wood determined that everything should be conducted as fairly as possible. The parties were placed at ten short paces distant from each other; this distance was thought too short by

Major Wood, but he himself stated that he hoped after the first fire, Fitzgerald would throw himself on Colonel King's humanity. His conduct was the reverse; the parties exchanged no fewer than six shots each! The fact of their having repeatedly missed each other, can only be accounted for by their excitement; for Major Wood has recorded his opinion, that Fitzgerald "seemed bent on blood." After the fourth shot, Fitzgerald said something about Major Wood's giving him advice "as a friend." The major replied that though he was no friend to Fitzgerald, he was a friend to humanity; and that, if after what had passed, Fitzgerald had firmness enough to acknowledge to Colonel King that he was the vilest of human beings, and bear without reply any language from Colonel King, however harsh, that then the affair might come to a conclusion. He consented to acknowledge that he had acted wrong, but not going further in his condemnation, it was resolved that the duel should proceed. He then attempted to address Colonel King, who peremptorily prevented him, saying "that he (Fitzgerald) was a d—d villain, and that he would not listen to anything he had to offer." Thus, after the first shot, they proceeded to fire twice again at each other! Colonel Fitzgerald's powder and ball were then expended, and he requested to be allowed one of Colonel King's pistols. Major Wood, however, refused to allow this request to be granted, though Colonel King eagerly pressed the major to allow it. The parties, therefore, separated, Colonel Fitzgerald having first agreed to meet Colonel King at the same hour and place on the following morning. Both the colonels, however, were put under arrest that day.

Meantime Miss King had been removed to Ireland; she was taken to the family residence at Mitchelstown, in the county of Cork. In our days a noble castle has been erected there, often visited by travellers, forming, in itself, one of the ornaments of the South of Ireland. The demesne through which the river Funcheon winds, runs at the foot of the Galtees; its surface is diversified, and the scenery is romantic. The chain of the Galtees rises very precipitately from the base, and the towering hills add much to the beauty of the landscape. Fifty years since, the Mitchelstown demesne was extremely well wooded, but within recent times the old timber has been cut down. In this secluded scene, her friends hoped that Miss King might rest secure; but their hopes were to be disappointed.

Colonel Fitzgerald, stung by mortification, and infatuated with passion, followed Miss King to Ireland, determined to get her again into his power. When Miss King had been removed to Ireland, she was accompanied by a servant-maid, who was in the colonel's interest. The maid's real character was discovered, and she was immediately dismissed from the

service of Lord Kingsborough; but she managed, before leaving, to place herself in communication with Colonel Fitzgerald.

At that time, the inn at Mitchelstown was kept by a person named Barry, an old retainer of the Kings. Fitzgerald, in disguise, came to Barry's house, and staid there for a day or two; he did not go out by day, but prowled about at night. His motions were watched by Barry, whose suspicions were awakened, and who conjectured that the stranger, as he believed him to be, had no good intentions. Lord Kingsborough was not at that time at Mitchelstown Castle; he was absent from home on public business, but his presence was expected at an inspection of yeomanry and militia, which was to take place at Fermoy. Thither, accordingly, Barry repaired, and met with Lord Kingsborough, as he expected. He gave his intelligence; and Lord Kingsborough's notion was, that the mysterious stranger must have been an emissary of Colonel Fitzgerald. Supposing that some new plot was hatching, he lost no time in going to Mitchelstown, and drove eagerly to the inn, where he learned that the stranger had departed that morning in a post-chaise. He learned from the post-boy who drove him, that the strange gentleman had stopped at the Kilworth hotel.

Lord Kingsborough, burning with anxiety, retraced his course, and, accompanied by Colonel King, arrived at the Kilworth hotel in the evening. He immediately asked whether a strange guest had come there that day, and he learned that the person of whom he was in pursuit was then in the house. Believing firmly that the person was a stranger, never supposing that Colonel Fitzgerald would have the audacity to approach the neighbourhood of Mitchelstown, Lord Kingsborough sent up his compliments by the waiter, with the expression of a desire to see the gentleman on business. The waiter took the message to Colonel Fitzgerald's bed-room; the door was locked; Fitzgerald would not open it, but roughly told the waiter not to disturb him at that unseasonable hour, as he could not attend to any business that evening. His voice was immediately recognised by Lord Kingsborough and his party; they hastened up stairs without any delay; they eagerly and vehemently demanded admittance. Their request was of course in vain, and it did not require very much effort to burst open the door. Fitzgerald at the moment was in the act of grasping a case of pistols. Colonel King rushed towards him, in violent excitement, in order to seize him. Colonel Fitzgerald at once grappled with him, when Lord Kingsborough, who was in a state of horrid excitement, immediately shot Fitzgerald upon the spot.

Such were the real facts of this extraordinary case, which have been erroneously told by various persons. The common story of the country, that Lord Kingsborough found Fitzgerald in bed, that the colonel cried out for mercy until he repeated one prayer, and that Lord Kingsborough cried, "No mercy, you dog"—all that and many other of the commonly told particulars, are absolutely false. Lord Kingsborough shot Colonel Fitzgerald in a paroxysm of mental excitement. When he entered the room, he never contemplated his death; what his intentions actually were, it is now utterly impossible to say, but what he did not intend to do can be affirmed, for after the event, Lord Kingsborough, though retaining a natural antipathy to Fitzgerald's memory, expressed the strongest regret at the occurrence. There is every reason to believe that the account of the transaction by Lord Kingsborough himself is the simple truth. He saw the struggle between his son and Fitzgerald; he remembered the audacious character before him, and influenced, as he stated, by apprehension for his son, he shot the Colonel. The whole affair was scarcely the work of a minute. In telling the circumstance to his own relatives upon that very night, Lord Kingsborough exclaimed, "God! I don't know how I did it; but I most sincerely wish it had been by some other hand than mine." *

The fate of Colonel Fitzgerald caused great talk at the time. Bills were sent before the grand jury of the county of Cork, of which the late Earl of Shannon (then Viscount Boyle) was foreman, and the bills were found against Lord Kingsborough, his son, the Honorable Robert King, Colonel of the Roscommon militia (now Viscount Lorton), and a man of the name of John Hartney, who had formerly been a private in the militia. The grand jury consisted of the first commoners in the county—Uniacke Fitzgerald, Deane Freeman, the Longfields, Aldworths, Boyle Townsend, &c. The assizes were held in the month of April, 1798, and a petty jury was empanelled to try the honorable Robert King (the present Lord Lorton) and Robert Hartney. The jury found them not guilty. In fact there was no prosecution.

Not long after the shooting of Colonel Fitzgerald had taken place the first Earl of Kingston died (November 13, 1797), consequently Lord Kingsborough, on succeeding to the title, demanded to be tried by his peers.

---

* From private information supplied by one of the few surviving persons, cognizant of all the circumstances. My respected informant was roused from his bed within four hours after the occurrence, and the facts stated to him by one of the King family exactly as in the above statement. That Lord Kingsborough did not enter the hotel with the intention of taking the life of Fitzgerald can be affirmed with certainty.

The indictment, therefore, against Robert Earl of Kingston, found at the spring assizes for 1798, in Cork, was moved by writ of *certiorari* into the high court of parliament; and on the 18th of May, 1798, the trial came on in the House of Lords.

The circumstances which led to the death of Colonel Fitzgerald, made people at the time look to the trial of Lord Kingston with some interest. Since the case of Lord Byron in England, there had been no trial of a peer, and the novelty of the proceedings imparted additional interest to the case. On the appointed day, there was a numerous assembly of the resident peers of Ireland. In general the meetings of the House of Peers were very thinly attended. Several peers specially attended on that day, for the first time in their lives. Amongst them were—Lords Kinsale and Muskerry, connected with the south of Ireland, and Lawrence Parsons, Lord Oxmantown (first Earl of Rosse). The Marquesses of Waterford and Drogheda, supported by the Earl of Ormonde, and some of the principal earls in the Irish peerage, attended. In addition to the two marquesses, there were twenty-seven earls, fourteen viscounts, three archbishops (Armagh, Cashel, Tuam), thirteen bishops, and fourteen barons, assembled. These, it may be observed, constituted a majority of the *resident* peers of Ireland.

The proceedings commenced by the Ulster King of Arms calling over the roll, beginning with the junior baron. There were found to be absent no fewer than forty-five barons, five bishops, forty-three viscounts, forty-seven earls, two marquesses (Donegal and Downshire), one duke (Leinster), and the Archbishop of Dublin. Thus the absent Irish peers far exceeded the number of those in attendance. The fact might cause surprise to those unacquainted with the history and constitution of the Irish peers. George III. created a vast number of English and Scotch gentlemen peers of Ireland. Not wishing to swamp the House of Lords in England, and anxious, at the same time, to satisfy the clamorous vanity of the political supporters of his favourite ministers, he adopted the plan of making Irish peers by wholesale. Thus it happens that so many families have titles in the peerage of Ireland, without possessing an acre of property in the country.

A good many spectators, led by curiosity, attended the trial of the Earl of Kingstown. The lords adjourned their proceeding to the lower chamber of parliament, the place appointed for the trial, as being more suitable than their own handsome but confined apartment. Their procession on that occasion was, probably, the last handsome piece of pageantry which the Irish House of Peers exhibited. They marched two by two into the House of Commons, the masters in chancery and the robed judges of the

courts of law preceding them. Immediately before the lords, walked in procession the minors of their order, not entitled to vote, and the eldest sons of the peers. Last of all came the most remarkable, and least noble man of the order,* John Fitzgibbon, first Earl of Clare, walking by himself, as it was fit that he should walk; for where amongst the body could *his* peer be found?

Then began the fantastic spectacle which the crowd had come to see. Reverences and salaams were duly made by serjeants-at-arms, and clerks in chancery, and clerks of the Queen's Bench. There were crossings to the right and left, and reverences to his Grace the Lord High Steward on the woolsack. The King's commission, appointing the Earl of Clare Lord High Steward, was read aloud, all the peers standing up uncovered; the writ of *certiorari*, and the return to it; after that the indictment before the grand jury of the county of Cork, and the finding "a true bill" by "Boyle and Fellows," were severally read at length. Then the clerk of the crown directed the serjeant-at-arms to make proclamation to the Constable of Dublin Castle, to bring his prisoner, Robert Earl of Kingston, to the bar.

"*Oyez—oyez—oyez*—Constable of Dublin Castle, bring forth Robert Earl of Kingston, your prisoner, to the bar, pursuant to the order of the House of Lords. God save the King."

Then, amid dead silence, the Earl of Kingston was ushered in by the Constable and Deputy Constable of Dublin Castle, the latter of whom carried the axe, standing with it on the left hand of Lord Kingston, the edge being turned from him. The noble prisoner then made a low reverence to the High Steward, and one to the peers at either side of him. He then fell upon his knees at the bar. Upon being told to rise, he again bowed to Lord Clare and all the peers, the compliment this time being returned him by the High Steward and all the lords. Lord Clare, from the woolsack, addressed him as follows:—

"Robert Earl of Kingston, you are brought here to answer one of the most serious charges that can be made against any man—the murder of a fellow-subject. The solemnity and awful appearance of this judicature must naturally discompose and embarrass your lordship. It may, therefore, not be improper for me to remind your lordship, that you are to be tried by the laws of a free country, framed for the protection, and the punishment of guilt alone; and it must be a great consolation to you, to reflect, that you are to receive a trial before the supreme judicature of the nation—that you are to be tried by your

* This unfavourable allusion to Lord Clare is of course the remark of the author quoted.

peers, upon whose unbiassed judgment and candour you can have the firmest reliance, more particularly as they are to pass judgment upon you under the solemn and inviolate obligation of their honour. It will also be a consolation to you to know, that the benignity of our law has distinguished the crime of homicide into different classes. If it arise from accident, from inevitable necessity, or without malice, it does not fall within the crime of murder; and of these distinctions, warranted by evidence, you will be at liberty to take advantage. Before I conclude, I am commanded by the house to inform your lordship, and all others who may have occasion to address the court during the trial, that the address must be to the lords in general, and not to any lord in particular."

Lord Clare was, probably, obliged to make the last remark, owing to the course of proceedings being rare and novel. The indictment was then read, Lord Clare having directed the accused to pay particular attention to it. The clerk of the crown then said, "How say you, Robert Earl of Kingston, are you guilty or not guilty of this murder and felony for which you stand arraigned?"

The Earl of Kingston replying "Not guilty," the clerk of the crown further interrogated him thus—"Culprit, how will your lordship be tried?" The earl replied, "By God and my peers." To which the clerk made rejoinder, "God send you a good deliverance." The serjeant-at-arms then made proclamation:—

"Oyez—oyez—oyez—All manner of persons who will give evidence upon oath before our sovereign lord the king, against Robert Earl of Kingston, the prisoner at the bar, let them come forth, and they shall be heard, for he now stands at the bar upon his deliverance."

A delay of some time then took place. No witnesses appearing, Lord Clare asked the counsel for Lord Kingston, whether they had served notices of the removal of the indictment into the high court of parliament? It was seldom that Lord Clare had to address any remark to the counsel who attended for the accused. It was no other than Curran, the sturdy enemy of Lord Clare.

Witnesses were then produced on the part of the accused, to prove that notice had been duly served on the widow and children of the deceased Colonel Fitzgerald. Proclamation was again made for witnesses for the crown to come forward; but none appeared. Then after some matters of form had been gone through, the Lord High Steward called over every peer by his name, beginning with the junior baron, and asked him, "Is Robert Earl of Kingston guilty of the murder and felony whereof he stands indicted, or not guilty?"

And thereupon every peer present severally, standing up uncovered, answered, "Not guilty, upon my honour," laying his right hand upon

his heart. The Lord High Steward then summoned the Earl of Kingston again to the bar, and briefly informed the accused of his acquittal without a dissenting voice. Lord Kingston then made three reverences to the peers, and retired.

The white staff was then delivered to Lord Clare, who, holding it in both his hands, broke it in two, and declared the commission to be dissolved.

Miss King was removed to England, and was domesticated there under a feigned name. She was at last settled in the family of a respectable clergyman of the Established Church in Wales. Her manners were engaging; in character, as well as person, she is described as having been very attractive. The clergyman did not know the real name, or the history of the interesting individual domiciled under his roof. For obvious reasons, he was kept in error by the friends of the young lady. The termination of her adventures was not the least remarkable fact in her romantic story. She was very much liked by the clergyman's family, and her conversational powers are described as being of a high order. She possessed one of the most fascinating of all accomplishments—*l'art de bien narrer*. Her own extraordinary adventures were one day the theme of her narrative powers. She told the clergyman, using feigned names, the entire history of her life, and described, as belonging to the history of another person, the feelings which she had herself experienced, and the incidents which had occurred to her. The delineation, as might easily be supposed, was highly wrought and spirited. It moved the clergyman exceedingly, and he expressed the deepest pity for the victim painted by Miss King. While he was so expressing his feelings, Miss King suddenly revealed to him who she was. "I am that very person for whom you have expressed so much interest." The clergyman was astonished at the intelligence, and shewed at first more surprise than pleasure at the information. Miss King at once repented of her frankness, as she thought it likely that she would be removed to another abode. She told the clergyman that she supposed, after that information, he would not permit her any longer to be an inmate of his household. He disclaimed such an intention—he saw that the young lady was "more sinned against than sinning"—and he felt sincere compassion for her sufferings, and sympathy with her misfortunes. In many cases, especially where the sex is concerned, "Pity is akin to love." It was so in the present instance, and the adventures of Miss King were finally closed more pleasantly than might have been augured from their commencement. She was not long after married to this clergyman, and lived with him a very happy and exemplary life. She died several years ago in Wales.

THE ASSASSINATION OF MISS REAY BY THE REV. MR. HACKMAN.

THIS affair, with its horrible conclusion, forms one of the most extraordinary love tales on record. The unhappy perpetrator of the crime, the Rev. James Hackman, was certainly a victim of the strangest delusion: his affection for Miss Reay verged throughout the intimacy upon insanity, and when he at last shot her, he could hardly be said to have been accountable for the action. The facts of the case are unparalleled; yet, if possible, the singularity of the circumstances is heightened by the long correspondence which took place between Hackman and Miss Reay, and which for talent, feeling, and romantic interest, fairly claims to rank by the side of the most celebrated series of amatory letters imagination or reality ever produced. The whole of this correspondence was collected and published by Mr. Herbert Croft, in a volume, called "Love and Madness." That book has now become very scarce, and one is therefore the more induced to reprint some portion of its epistolary contents, as illuminating and actually explaining the trial itself. To commence, however, with a detail of the transaction.

The Lord Sandwich, whose part in the melancholy affair connects it with the aristocracy, and whose conduct towards poor Hackman, when sentenced to die, redounded so much to his credit and honour, was John Montagu, fourth Earl of Sandwich. This nobleman was the grandson of his immediate predecessor, Edward the third Earl, and son of Edward Viscount Hichinbroke, by his wife Elizabeth, only daughter of Alexander Popham, Esq., of Littlecote, in Wiltshire. The Earldom of Sandwich was first conferred upon Admiral Sir Edward Montagu, a celebrated soldier and seaman at the time of the civil wars and the Restoration, who perished heroically, while commanding the English fleet against the Dutch, off Southwold Bay, in 1672. John, fourth Earl of Sandwich, the Earl of this trial, was the Admiral's most distinguished descendant. He was a great diplomatist and statesman, and assisted at the Congress of Aix La Chapelle in 1748. He subsequently became Secretary of State, and First Lord of the Admiralty. His lordship succeeded to the Earldom in 1729,

and died in 1792, leaving, by his marriage with Judith, daughter of Charles Viscount Fane, an only son, his successor as fifth Earl, and grandfather of John William, the seventh and present Earl of Sandwich.

It appears that Mr. Hackman was born at Gosport in Hampshire, and was originally designed for trade, in which his father was engaged. It was found, however, that his disposition was of too volatile a nature to admit of success in any business; and his parents, willing to promote his interests to the extent of their power, purchased for him a commission as ensign in the 68th regiment of foot. He had not been long in the service before he was entrusted with the command of a recruiting party, and going to Huntingdon, in pursuance of his instructions, he became known to the Earl of Sandwich, who had a seat in the neighbourhood, and by whom he was frequently invited to dinner. It appears that he there first became acquainted with the object of his passion, and the victim of his fury.

Miss Reay was the daughter of a staymaker in Covent Garden, and served her apprenticeship to a mantuamaker. in George's-court, St. John's-lane, Clerkenwell. She was bound when only thirteen; and during her apprenticeship was noticed by Lord Sandwich, who took her under his protection, and treated her with every mark of tenderness. At the time of her being introduced to Mr. Hackman she had lived with her noble protector during a period of nineteen years, and in the course of that time had borne nine children. One of these children is at present an eminent member of the English bar. Although Miss Reay was nearly twice the age of Mr. Hackman, no sooner had he seen her than he became violently enamoured of her.

It was while he was tormented by this unhappy and ungovernable passion that he found that any hopes which he might entertain of preferment in the army were not likely to be realized, and he determined to turn his thoughts to the church. In pursuance of this design he took orders, and obtained the living of Wiverton, in Norfolk, only about Christmas preceding the deed which cost him his life.

How long he had been in London previous to this affair is not certainly known; but at the time of its occurrence he lodged in Duke's-court, St. Martin's-lane. On the morning of the 7th of April, 1779, he sat for a considerable time in his closet, reading "Blair's Sermons:" but in the evening he took a walk to the Admiralty, where he saw Miss Reay go into the coach along with Signora Galli, who attended her. The coach drove to Covent Garden Theatre, where the ladies stayed to see the performance of "Love in a Village," and Mr. Hackman went into the theatre at the same time; but shortly after he returned to his lodg-

ings, and having loaded two pistols, again came to the play-house, where he waited till the play was over. Seeing Miss Reay ready to step into the coach, he took a pistol in each hand, one of which he discharged against her, which killed her on the spot, and the other at himself, which, however, did not take effect. He then beat himself with the butt-end on his head, in order to destroy himself, so fully was he bent on the destruction of both; but after a struggle he was secured, his wounds dressed, and then he was carried before Sir John Fielding, who committed him to Tothilfield's Bridewell, and next to Newgate, where a person was appointed to attend him, lest he should lay violent hands on himself. In Newgate, as he knew he had no favour to expect, he prepared himself for the awful change which was about to take place. He had dined with his sister on the day on which the murder was committed, and in the afternoon he wrote a letter to her husband, Mr. Booth, an eminent attorney, informing him of his intention to destroy himself, and desiring him to sell what effects he had, in order to pay a small debt he owed; but it appears that the letter was not despatched, as it was found in his pocket.

The prisoner was indicted at the ensuing Old Bailey sessions, and tried before Mr. Justice Blackstone, the author of the *Commentaries*. It was proved by Mr. MacNamara, that on Wednesday, the 7th of April, he was quitting the theatre, when seeing Miss Reay, with whom he was slightly acquainted, he offered his assistance in reaching her carriage. She accepted his proffered arm, and just as they were in the piazza he heard the report of a pistol, when he directly felt his arm compressed by the lady's hand, and she then immediately fell to the ground. He thought at first the lady had fallen from fright only, but on stooping to raise her up, he found that his hand was bloody, and he then saw that she was wounded. He immediately conveyed her into the Shakespeare Tavern, whither the prisoner soon after followed in custody. He asked him some questions about his reason for shooting Miss Reay, but the only answer which he gave was, that was not the place to satisfy him. The prisoner afterwards said that his name was Hackman; and he sent for Mr. Booth, who lived in Craven-street. Other evidence was also adduced, from which it appeared that he followed Miss Reay out of the theatre, and having tapped her on the shoulder to attract her attention, he suddenly drew two pistols from his pocket, one of which he discharged at her, and the other at himself. They both fell feet to feet, and the prisoner then beat himself about the head, and called out for some one to kill him. He was secured by a Mr. McMahon, who dressed his wounds, and conveyed him to the Shakespeare Tavern, where Miss Reay almost immediately afterwards died.

On his being called upon for his defence, the prisoner addressed the Court in the following terms:—"I should not have troubled the Court with the examination of witnesses to support the charge against me, had I not thought that the pleading guilty to the indictment gave an indication of contemning death, not suitable to my present condition, and was, in some measure, being accessory to a second peril of my life: and I therefore thought that the justice of my country ought to be satisfied by suffering my offence to be proved, and the fact established by evidence.

"I stand here this day the most wretched of human beings, and confess myself criminal in a high degree; yet while I acknowledge, with shame and repentance, that my determination against my own life was formal and complete, I protest, with that regard to truth which becomes my situation, that the will to destroy her, who was ever dearer to me than life, was never mine till a momentary frenzy overcame me, and induced me to commit the deed I now deplore. The letter which I meant for my brother-in-law after my decease will have its due weight as to this point with good men.

"Before this dreadful act I trust nothing will be found in the tenor of my life which the common charity of mankind will not excuse. I have no wish to avoid the punishment which the laws of my country appoint for my crime; but being already too unhappy to feel a punishment in death or a satisfaction in life, I submit myself with penitence and patience to the disposal and judgment of Almighty God, and to the consequences of this inquiry into my conduct and intention."

The following letter was then read:—

"My dear Frederic,—When this reaches you I shall be no more; but do not let my unhappy fate distress you too much: I have strove against it as long as possible, but it now overpowers me. You well know where my affections were placed: my having by some means or other lost hers (an idea which I could not support) has driven me to madness. The world will condemn me, but your good heart will pity me. God bless you, my dear Frederic! Would I had a sum to leave you to convince you of my great regard! You were my only friend. I have hid one circumstance from you which gives me great pain. I owe Mr. Knight of Gosport one hundred pounds, for which he has the writings of my houses; but I hope in God, when they are sold and all other matters collected, there will be nearly enough to settle our account. May Almighty God bless you and yours with comfort and happiness; and you ever be a stranger to the pangs I now feel! May Heaven protect my beloved woman, and forgive this act, which alone could relieve me from a world of misery I have long endured! Oh! if it should ever be in your power to do her an act of friendship, remember your faithful friend, "J. HACKMAN."

The jury immediately returned their verdict of guilty. The unhappy man heard the sentence pronounced against him with calm resignation to his fate, and employed the very short time then allowed murderers after conviction, in writing and in repentance and prayer.

During the procession to Tyburn he seemed much affected, and said but little; and when he arrived at Tyburn, and got out of the coach and mounted the cart, he took leave of Dr. Porter and the Ordinary in the most affectionate manner. He was executed the 19th April, 1779.

Such are the details of a murder, upon which the correspondence throws so strange a light. The letters here given are in the order in which they were written.

TO MISS MARGARET REAY.

Huntingdon, Dec. 4, 1774.

Dear M.—Ten thousand thanks for your billet by my Corporal Trim yesterday. The fellow seemed happy to have been the bearer of it, because he saw it made *me* happy. He will be as good a soldier to Cupid as to Mars, I dare say; and Mars and Cupid are not now to begin their acquaintance, you know. Whichever he serves, you may command him, of course, without a compliment; for Venus, I need not tell *you*, is the mother of Cupid, and mistress of Mars.

At present the drum is beating up under my window for volunteers to Bacchus—in plain English, the drum tells me dinner is ready; for a drum gives us bloody-minded heroes an appetite for eating, as well as for fighting; nay, we get up by the beat of it, and it every night sends, or ought to send, us to bed and to sleep. To-night it will be late before I get to one or the other, I fancy—indeed the thoughts of you would prevent the latter. But the next disgrace to refusing a challenge is refusing a toast. The merit of a jolly fellow and of a spunge is much about the same. For my part, no glass of any liquor tastes as it should to me, but when I kiss my M. on the rim.

Adieu—Whatever hard service I may have after dinner, no quantity of wine shall make me yet drop or forget my appointment with you to-morrow. We certainly were not seen yesterday, for reasons I will give you. Though you should persist in never being mine,

Ever, ever yours.

Huntingdon, Dec. 6, 1775.

My dearest Margaret,—No, I will not take advantage of the sweet, reluctant, amorous confession which your candour gave me yesterday.

If to make me happy be to make my M. otherwise, then, happiness, I 'll none of thee.

And yet I *could* argue. Suppose he *has* bred you up—suppose you *do* owe your numerous accomplishments, under genius to him—are you therefore his property? Is it as if a horse that he has bred up should refuse to carry him? Suppose you therefore *are* his property, will the fidelity of so many years weigh nothing in the scale of gratitude?

Years! why, can obligation (suppose they had *not* been repaid an hundredfold) do away the unnatural disparity of years? Can they bid five-and-fifty stand still (the least that you could ask), and wait for five-and-twenty? Many women have the same obligations (if, indeed, there be many of the *same* accomplishments) to their fathers. They have the additional obligation to them (if indeed, it be an obligation) of existence. The disparity of years is sometimes even less. But, must they therefore take their fathers to their bosoms? Must the jessamine fling its tender arms around the dying elm?

To my little fortunes you are no stranger. Will you share them with me? And you shall honestly tell his Lordship that gratitude taught you to pay every duty to him till love taught you there were other duties which you owed to H.

Gracious Heaven, that you would pay them!

But, did I not say I would not take advantage? I will not. I will even remind you of your children; to whom I, alas! could only shew at present the affection of a father.

M., weigh us in the scales. If gratitude out-balance love—so.

If you command it, I swear by love, I 'll join my regiment to-morrow.

If love prevail, and insist upon his dues, you shall declare the victory and the prize. I *will* take no advantage.

Think over this. Neither will I take you by surprise. *Sleep upon it*, before you return your answer. Trim shall make the old excuse to-morrow. And, thank Heaven, to-night you sleep alone!

Why did you sing that sweet song yesterday, though I so pressed you? Those words and your voice were too much.

No words can say how much I am yours.

TO MR. HACKMAN.

H., Dec. 7, 1775.

My dear H.—Here has been a sad piece of work ever since I received yours yesterday. But don't be alarmed—We are not discovered to the prophane. Our tender tale is only known to—(whom does your fear

suggest?)—to love and gratitude, my H. And they ought both, for twenty reasons, to be *your* friends, I am sure.

They have been trying your cause, ever since the departure of honest Trim yesterday. Love, though in my opinion not so blind, is as good a justice as Sir John Fielding. I argued the matter stoutly—my head on his Lordship's side of the question, my heart on yours. At last they seemed to say, as if the oath of allegiance which I had taken to gratitude, at a time when, Heaven knows, I had never heard of love, should be void, and I should be at full liberty to devote myself, body and soul, to——But call on me to-morrow before dinner, and I'll tell you their final judgment. This I will tell you now—love sent you the tenderest wishes, and gratitude and I could never pay you all I owe you for your noble letter of yesterday.

Yet, oh my H., think not meanly even for this! Do not you turn advocate against me. I will not pain you. 'Tis impossible you ever should.

Come then to-morrow; and surely Omiah will not murder love. Yet I thought the other day he caught our eyes conversing. Eyes speak a language all can understand. But, is a child of nature to nip in the bud that favorite passion which his mother Nature planted, and still tends? What will Oberea and her coterie say to this, Omiah, when you return from making the tour of the globe? They'll blackball you, depend on it.

What would Rousseau say to it, my H.? You shall tell me to-morrow. I will not write another word, lest conscience, who is just now looking over my left shoulder, should snatch my pen, and scratch out *to-morrow*.

TO MISS ———.

Huntingdon, Dec. 7, 1775.

My dearest Soul,—I hope to Heaven, Trim will be able to get this to you to-night! Not I only, but my whole future life, shall thank you for the dear sheet of paper I have just received. Blessings, blessings!—But I could write and exclaim, and offer up vows and prayers, till the happy hour arrives.

Yet hear me, M. If I have thus far deserved your love, I will deserve it still. As a proof I have not hitherto pressed you for anything conscience disapproves.....Our love, the inexorable tyrant of our hearts, claims his sacrifice, but does not bid us insult his Lordship's walls with it. How civilly did he invite me to H. in October last, though an unknown recruiting officer! How politely himself first introduced me to himself! often has the evil recollection made me struggle with my passion.

Here a chasm must necessarily occur in consequence of the nature of the correspondence. The letters cannot, however, be passed over without remarking that their contents add still to the strangeness of the story, in shewing how much less inducement there could be for the future, to lead Hackman to so unfit a marriage.

The letters then continue as follow:—

TO MR. H———.

H. 10 *Dec.* '75.

Your two letters of the day before yesterday, and what you said to me yesterday in my dressing-room, have drove me mad. To offer to sell out and take the other step to get money for us both, was not kind. You know how such tenderness distracts me. As to marrying me, that you should not do upon any account. Shall the man I value be pointed at and hooted for selling himself to a Lord, for a commission, or some such thing? My soul is above my situation. Besides, I will not take advantage, Mr. H., of what may be only perhaps (excuse me) a youthful passion. After a more intimate acquaintance with me of a week or ten days, your opinion of me might very much change. And yet—you *may* love me as sincerely as I——

But I will transcribe you a verse which I don't believe you ever heard me sing, though it's my favourite. It is said to be part of an old Scots ballad—nor is it generally known that Lady A. L. wrote it. Since we have understood each other, I have never sung it before you, because it is so descriptive of our situation——how much more so since your cruelly kind proposal of yesterday! I wept, like an infant, over it this morning:—

"I gang like a ghost, and I do not care to spin,
I fain would think on Jamie, but that would be a sin,
I must e'en do my best a good wife to be,
For auld Robin Gray has been kind to me."

My poor eyes will only suffer me to add, for God's sake, let me see my *Jamie* to-morrow. Your name also is Jamie.

TO MISS ———.

Huntingdon, 28 *Dec.* 1775.

Your condescension in removing my most *groundless* cause of jealousy yesterday, was more than I deserved. How I exposed myself by my violence with you! But, I tell you, my passions are all gunpowder. Though, thank God, no Othello, yet am I.

"One not easily jealous; but, being wrought,
Perplexed in th' extreme;"

and that God knows how I love you, worship you, idolize you.

How *could* I think you particular to such a thing as B.? You said you forgave me to-day, and I hope you did. Let me have it again from your own dear lips to-morrow, instead of the next day. Everything shall be ready—and the guitar, which I wrote for, is come down, and I'll bring the song and you shall sing it, and play it, and I'll beg you to forgive me, and you shall forgive me, and—five hundred ands besides.

Why, I would be jealous of this sheet of paper, if you kissed it with too much rapture.

What a fool?—No, my M., rather say—what a lover!

Many thanks for your picture. It *is* like.

TO THE SAME.

Huntingdon, 1 *Jan.* 1776.

Lest I should not see you this morning, I will scribble this before I mount honest Crop; that I may leave it for you.

This is a new year. May every day of it be happy to my M. May—but don't you know there's not a wish of bliss I do not wish you?

A *new* year—I like not this word. There may be new lovers—I lie—there may not. M. will never change her H. I am sure she will never change him for a truer lover.

A new year; 76. Where shall we be in 77? Where in 78? Where in 79? Where in 80?

In misery or bliss, in life or death, in heaven or hell—wherever *you* are there may H. be also!

The soldier whom you desired me to beg off, returns thanks to his unknown benefactress. Discipline must be kept up in our way; but I am sure you will do me the justice to believe I am no otherwise a friend to it.

TO MR. ———.

H. 23Feb. 76.

Where was you this morning, my life? I should have been frozen to death with the cold, if I had not been waiting for *you*. I am uneasy, very uneasy. What could prevent you? Your own appointment too.

Why not write, if you could not come?—Then, I had a dream last night, a sad dream, my H.

"For thee I fear, my love;
Such ghastly dreams last night surprised my soul."

You may reply, perhaps, with my favourite Iphis,

"Heed not these black illusions of the night,
The mockings of unquiet slumbers."

Alas, I cannot help it. I am a weak woman, not a soldier.

I thought you had a duel with a person whom we have agreed never to mention. I thought you killed each other. I not only saw his sword, I *heard* it pass through my H.'s body. I saw you both die; and with you, love and gratitude. Who is there, thought I, to mourn for M.;—Not one!

You may call me foolish; but I am uneasy, miserable, wretched! Indeed, indeed I am. For God's sake let me hear from you.

TO MISS ———.

Cannon Coffee-house, 17 *March*, 76.

Though you can hardly have read my last scrawl, I must pester you with another. I had ordered some dinner; but I can neither eat, nor do anything else. "Mad!"—I may be mad, for what I know. I am sure I'm wretched.

For God's sake, for my life and soul's sake, if you love me, write directly hither, or at least to-night to my lodgings, and say what is that *insuperable* reason on which you dwelt so much. "Torture shall not force you to marry me." Did you not say so? Then you hate me; and what is life worth?

Suppose you had not the dear inducement of loving me (*if* you love me! Oh! blot out that *if!*), and being adored by me—still, do you not wish to relieve yourself and me from the parts we act? My soul was not formed for such meannesses. To steal in at a back door, to deceive, to plot, to lie: Perdition! the thought of it makes me despise myself.

Your children—Lord S—(If we have not been ashamed of our conduct, why have we cheated conscience all along by "He" and "His," and "Old Robin Gray?" Oh! how have we descended, M.!) Lord S., I say, cannot but provide for your dear boys. As to your sweet little girl—I will be a father to her, as well as a husband to you. Every farthing I have I will settle on you both. I will—God knows, and you shall find what I will do for you both, when I am able. Good God, what would I *not* do!

Write, write; I say, write. By the living God I will have this *insuperable reason* from you, or I will not believe you love me.

TO MR. H———.

A. 17 *March*, 76.

And does my H. think I wanted such a letter as this to finish my affliction? Oh, my dear Jamie, you know not how you distress me.

And do you imagine I have *willingly* submitted to the artifices to which I have been obliged, for your sake, to descend? What has been *your* part, from the beginning of the piece, to *mine*? I was obliged to act a part even to *you*. It was my business not to let you see how unhappy the artifices, to which I have submitted, made me. And they did embitter even our happiest moments.

But fate stands between us. We are doomed to be wretched. And I, every now and then, think some terrible catastrophe will come of our connection. "Some dire event," as Storgè prophetically says in Jephtha, "hangs o'er our head"—

> "Some woful song we have to sing
> In misery extreme—O never, never
> Was my foreboding mind distress'd before
> With such incessant pangs!"

Oh, that it were no crime to quit this world like Faldoni and Teresa! and that we might be happy together in some other world, where gold and silver are unknown! By your hand I could even die with pleasure. I know I could.

"Insuperable reason." Yes, my H., there is, and you force it from me. Yet, better to tell you, than to have you doubt my love; that love which is now my religion. I have hardly any god but you. I almost offer up my prayers *to* you, as well as *for* you.

Know then, that if you were to marry me, you would marry some hundred pounds' worth of debts! and *that* you never shall do.

Do you remember a solemn oath you took in one of your letters, when I was down at H.? and how you told afterwards it *must* be so, because you had so solemnly sworn it?

In the same solemn and dreadful words, I swear, that I never will marry you, happy as it would make me, while I owe a shilling in the world. Jephtha's vow is past.

What your letter says about my poor children made me weep; but it shall not make me change my resolution.

It is a further reason why I should not. "If I do not marry you, I do not love you." Gracious powers of love! Does my H. say so? My *not* marrying you is the strongest proof I can give you of my love

And Heaven, you know, has heard my vow. Do *you* respect it, and never tempt me to break it—for not even *you* will *ever* succeed. Till I have some better portion than debts, I *never* will be yours.

While you are in Ireland——

Yes, my love, in Ireland. Be ruled by me. You shall immediately join your regiment there. You know it is your duty. In the meantime, something may happen. Heaven will not desert two faithful hearts that love like yours and mine. There are joys; there is happiness in store for us yet. I feel there is. And (as I said just now) *while you are in Ireland,* I'll write to you *every* post, *twice* by *one* post, and I'll think of you, and I'll dream of you, and I'll kiss your picture, and I'll wipe my eyes, and I'll kiss it again, and then I'll weep again. And——

Can I give a stronger instance of my regard for you, or a stronger proof that you ought to take my advice, than by thus begging my only joy to leave me? I will not swear I will not survive it; but, I beseech you, go!

Fool that I am——I undo with one hand all I do with the other. My tears, which drop between every word I write, prevent the effect of my reasoning; which, I am sure, is just.

Be a man, I say—you *are* an angel. Join your regiment; and as sure as I love you (nothing can be *more* sure), I will recall you from what will be banishment as much to me as you, the first moment I can marry you with honour to myself, and happiness to you.

But I must not write thus. Adieu!

"Ill suits the voice of love when glory calls,
And bids thee follow Jephtha to the field."

TO MISS ———.

Cannon Coffee-house 17 *March,* 1776.

And I will respect the vow of Jephtha, and I will follow to the field. At least, I will think of it all to-night, for I am sure I shall not sleep, and will let you know the success of my struggle it will be to-morrow. I will wait for you at the same place in the Park, where I shall see you open the A. door. Should it rain—I'll write. It was my intention to have endeavoured to see you now, but I changed my mind, and wrote this, here; and I am glad I did. We are not in a condition to see each other. Cruel debts! Rather, cruel vow! for, would you have but let me, I would have contrived some scheme about your debts. I *could* form a plan. My Gosport matters—my commission—

Alas, you frown, and I must stop. Why should not fortune smile upon my two lottery tickets? Heaven knows I bought them on your account. Upon the back of one of them I wrote, in case of my sudden death, "this is the property of Miss ——." On the back of the other, that it belonged to your daughter.

For what am I still reserved.

TO MR. ———.

A., 19 *March*, 1776.

Why, why do you write to me so often? Why do you see me so often? when you acknowledge the necessity of complying with my advice.

You tell me, If I bid you you'll go. I have bid you, begged you to go. I *do* bid you go. Go, I conjure you, go! But let us not have any more partings. The last was too, too much. I did not recover myself all day. And your goodness to my little white-haired boy—He made me burst into tears this morning, by talking of the good-natured gentleman, and producing your present.

Either stay, and let our affection discover and ruin us—or go.

On the bended knees of love I entreat you, H., my dearest H., to go.

TO MISS ———.

Ireland, 26 *March*, 1776.

Ireland—England—Good Heavens, that M. should be in one part of the world, and her H. in another! Will not our destinies suffer us to breathe the same air? Mine will not, I most firmly believe, let me rest, till they have hunted me to death.

Will you not give me your approbation for obeying you thus? Approbation! And is that the coin to pass between *us*?

Yet, I will obey you further. I will restrain my pen as much as possible. I will scratch the word love out of my dictionary. I will forget —I lie—I never *can*, nor ever *will* forget you, or anything which belongs to you. But I will, as you wisely advise, and kindly desire me, as much as possible, write on other subjects. Everything entertaining, that I can procure, I will. I'll *Twissify*, and write Tours—or anything but love-letters. This morning, pardon me: I am unable to trifle; I *must* be allowed to talk of love, of M.

And, when I *am* able, you must allow me to put a word or two sometimes for myself. To-day, however, I will not make *you* unhappy by telling you how truly so *I* am.

The truth is—my heart is full: and though I thought, when I took up

my pen, I could have filled a quire of paper with it, I now have not a word to say. Were I sitting by your side now (oh that I were!) I should only have power to recline my cheek upon your shoulder, and to wet your handkerchief with my tears.

My own safety, but for your sake, is the last of my considerations. Our passage was rather boisterous, but not dangerous. Mrs. F. (whom I mentioned to you, I believe, in the letter I wrote just before we embarked) has enabled me to make you laugh with an account of her behaviour, were either of us in a humour to laugh.

Why did you cheat me so about that box?

Had I known I should find, upon opening it, that the things were for me, I would never have brought it. But that you knew. Was it kind, my M., to give me so many *daily* memorandums of you, when I was to be at such a distance from you? Oh yes, it was, it was, *most* kind. And that, and you, and all your thousand and ten thousand kindnesses I never will forget. The purse shall be my constant companion, the shirts I'll wear by night, one of the handkerchiefs I was obliged to use in drying my eyes as soon as I opened the box, the ——

God, God bless you in this world—that is, give you your H——, and grant you an easy passage to eternal blessings in a better world.

If you go before me, may the stroke be so instantaneous, that you may not have time to cast one longing, lingering look on H.!

TO THE SAME.

Ireland, 8 *April*, 1776.

Your's, dated April the first, would have diverted me, had I been some leagues nearer to you. It contained true wit and humour. I truly thank you for it, because I know with how much difficulty you study for anything like wit or humour in the present situation of your mind. But you do it to divert me; and it is done for one, who, though he cannot laugh at it, as he ought, will remember it, as he ought. Yet with what a melancholy tenderness it concluded! *There* spoke your heart.

Your situation, when you wrote it, was something like that of an actress, who should be obliged to play a part in comedy, on the evening of a day which, by some real catastrophe, had marked her out for the capital figure of a real tragedy. Perhaps I have said something like this in the long letter I have written you since. Never mind.

Pray be careful how you seal your letters. The wax always robs me of five or six words. Leave a space for your seal. Suppose that should be the part of your letter which tells me you still love me. If the wax cover

it, I see it not—I find no such expression in your letter—I grow distracted —and immediately set out for Charing Cross to ask you whether you do indeed still love me.

In the hospitality of this country I was not deceived. They have a curse in their language, strongly descriptive of it—"May the grass grow at your door!" The women, if I knew not you, I should find sensible and pretty. But I am deaf, dumb, blind, to everything, and to every person but you. If I write any more this morning, I shall certainly sin against your commands.

Why do you say nothing of your dear children? I insist upon it you buy my friend a taw, and two dozen of marbles; and place them to the account of Your humble servant.

TO THE SAME.

Ireland, 20 April, 1776.

Thanks for the two letters I received last week. They drew tears from me, but not tears of sorrow.

To my poetry you are much too partial. Never talk of writing poetry for the press. It will not do. Few are they who, like you, can judge of poetry; and, of the judges, few, alas! are just. Juvenal, the Roman Churchill, advises a young man to turn auctioneer, rather than poet. In our days Christie would knock Chatterton out of all chance in a week. The Spaniards have a proverb, "He who cannot make one verse is a blockhead; he who makes more is a fool." Pythagoras you know a little by name. Perhaps you might not know he was starved to death in the temple of the Muses at Metapontum. The Muses have no temples, it is true, in our days (for God knows they are not much worshipped now), but the Ladies are not without their human sacrifices.

A young man was complaining the other day that he had lost his appetite; "Turn poet, then," said one in company: "they generally have pretty stout ones."

Your *sensible* eyes have not long, I know, been dry from the tale of Chatterton. Even now a pearly drop peeps over the brim of each; and now they drop, drop upon his mangled memory, like the Samaritan's balm upon the traveller's wounds. And, perhaps, what I had heard and told you may not be half.

That I may make you some amends for teazing you with my bad poetry the other day, I will to-day send you some very good. It is the composition of a clergyman, an Englishman, settled near Dublin. It got the prize at Oxford not long since, and was spoken in the theatre at such a

public business, as one at which, I think, I remember to have heard you say you were present. Perhaps you were there this very time.

TO THE SAME.

Ireland, 3 May, 1776.

My last, I hope, did not offend you. The bank note I was obliged to return; although I thank you for it, more than words can tell you.

Shall I, whom you will not marry, because you will not load me with your debts, increase those debts; at least prevent you from diminishing them, by robbing you of fifty pounds? Were I capable of it, I should be unworthy your love. But be not offended that I returned it. Heaven knows how willingly a quire of s..ch things should have accompanied it, had Heaven made me so rich.

Be not anxious about me. Talk not of the postage which your dear letters cost me. Will you refuse to make your H. happy? And think you I can pay too dear for happiness?

But, Lord! you rave. I am rich—as rich as a Jew: and without taking into the calculation the treasure I possess in your love. Why, you talk of what I allow that relation, poor soul! That does not swallow up all my lands and hereditaments at Gosport. Then there's my pay, and twenty other ways and means besides, I dare say, could I but recollect them. Go to—I tell you I *am* rich. So, let me know you got the silver paper safe, and that I am a good boy.

Rich! To be sure I am—why, I can afford to go to plays. I saw Catley last night, in your favourite character. By the way, I'll tell you a story of her, when she was on your side the water.

Names do not immortalize praiseworthy anecdotes, they immortalize names. Some difference had arisen between Miss Catley and the managers concerning the terms upon which she was to be engaged for the season. One of the managers called upon her, at her little lodgings in Drury Lane, to settle it. The maid was going to shew the gentleman up stairs, and to call her mistress. "No, no," cries the actress, who was in the kitchen, and heard the manager's voice, "there is no occasion to shew the gentleman to a room. I am busy below (to the manager), making apple-dumplings for my brats. You know whether you have a mind to give me the money I ask, or not. I am none of your fine ladies, who get a cold or the toothache, and can't sing. If you have a mind to give me the money, say so; my mouth shall not open for a farthing less. So, good morning to you—and don't keep the girl there in the passage; for I want her to put the dumplings in the pot, while I nurse the child."—

The turnips of Fabricius, and Andrew Marvel's cold leg of mutton, are worthy to be served up on the same day with Nan Catley's apple-dumplings.

Come—I am not unhappy, or I could not talk of other people and write thus gaily. Nothing can make me truly unhappy, but a change in your sentiments of me. By the Almighty God of Heaven, I know not my own feelings so thoroughly; I do not think I could survive such a thing.

As you love me, scold me not about the poplin you'll receive next week. It cost me nothing—I may surely give what was given to me.

TO MR. ————.

England, 25 June, 76.

Let me give you joy of having found such kind and agreeable friends in a strange land. The account you sent of the gentleman and lady, especially of the latter, quite charmed me. Neither am I without my friends. A lady, from whom I have received particular favours, is uncommonly kind to me. *For the credit of your side of the water, she is an Irishwoman. Her agreeable husband, by his beauty and accomplishments, does credit to this country. He is remarkable also for his feelings.*

Adieu! This will affect you, I dare say, in the same manner your account affected me.

TO MISS ————.

Ireland, 1 July, 76.

Your little billet, of the 25th of last month, was a proper reproof for the contents of one of mine. Till I saw the joke I was truly unhappy. If you had not written the long and kind letter the next day, which came in the same packet, I should have been miserable. Yet, I wish you happy, *most* happy; but I cannot bear the thoughts of your receiving happiness from any hands (man, woman, or child) but mine. Had my affections not been fixed, as they are unalterably, elsewhere, the wife of my *friend*, with all her charms, would never fix them. I have but two masters, Love and Honour. If I did not consider you as my wife, I would add, you know I have but *one* mistress.

A friend of mine is going to England—(happy fellow I should think him, to be but in the same country with you)—He will call at the Cannon Coffee-house for me. Do send me, thither, the French book you mention, *Werther*. If you don't, I positively never will forgive you. Nonsense, to say it will make me unhappy, or that I shan't be able to read it! Must I pistol myself, because a thick-blooded German has been fool enough to

set the example, or because a German novelist has feigned such a story? If *you* don't lend it me, I will most assuredly procure it some time or another; so, you may as well have the merit of obliging me. My friend will send a small parcel for you to D. Street. The books I send you, because I know you have not got them, and because they are so much cheaper here. If you are afraid of emptying my purse (which, by the way, is almost worn out), you shall be my debtor for them. So, send me a note of hand, *value received*. The other things are surely not worth mentioning.

TO MR. ————.

England, 20 Aug., 76.

For God's sake! where are you? What is the matter? Why don't you write?—Are you ill? God forbid. And I not with you to nurse you! if you are, why don't you let somebody else write to me? Better all should be discovered, than suffer what I suffer. It's more than a month since I heard from you. A month used to bring me eight or ten letters. When I grew uneasy, it was in vain, as I said in my last, that I endeavoured to find your friend who brought the parcel (for I would certainly have seen him, and asked him about you). What is become of all my letters for this last month? Did you get what I returned by your friend? Do you like the purse? The book you mentioned is just the only book you should never read. On my knees, I beg you never, never read it! Perhaps you have read it—Perhaps!—I am distracted.——Heaven only knows to whom I may be writing this letter.

Madam, or Sir!—If you are a woman, I think you will; if you are a man, and ever loved, I am sure you will oblige me with one line to say what is come of Mr. ———, of the ——— regiment. Direct to Mrs ———, D. Street, London.—Any person whose hands my letter may fall into, will not think this much trouble; and, if they send me good news, Heaven knows how a woman, who loves, if possible, too well, will thank them.

TO MISS ———.

Ireland, 26 Sept., 1776.

As I am no sportsman, there is no merit, you may think, in devoting a morning to this employment. Nor do I claim any merit. 'Tis only making myself happy.

Now, I hope, you are quite at ease about me. My health, upon my honour! upon our love! is almost re-established—Were I not determined

to keep on *this* side the truth, I would say *quite*. The four letters I have written to you, since I received your frantic sheet of paper, have explained and made up everything. How can I sufficiently thank you for all your letters; especially for that of this week? Never did you pen a better. Did I know anybody employed in a work, where that letter could properly appear, he should insert it in your own words.

Excuse me, I am unwillingly called away.

What I said this morning about your letter, brings to my recollection something of that sort. Shall I tell it you? I will.

James Hirst, in the year 1711, lived servant with the Honourable Edward Wortley. It happened, one day, in re-delivering a parcel of letters to his master, by mistake he gave him one which he had written to his sweetheart, and kept back one of Mr. Wortley's. He soon discovered the mistake, and hurried back to his master; but unfortunately for poor James, it happened to be the first that presented itself to Mr. Wortley, and, before James returned, he had given way to a curiosity which led him to open it, and read the love-told story of an enamoured footman. It was in vain that James begged to have it returned. "No," says Mr. Wortley, "James, you shall be a great man; this letter shall appear in 'The Spectator.'"

Mr. Wortley communicated the letter to his friend Sir Richard Steel.—It was accordingly published in his own words, and is that letter, No. 71, volume the first of the Spectator, beginning "Dear Betty."

James found means to remove that unkindness of which he complains in his letter; but, alas! before their wishes were completed, a speedy end was put to a passion which would not discredit much superior rank, by the unexpected death of Betty. James, out of the great regard and love he bore to Betty, after her death, married the sister. He died, not many years since, in the neighbourhood of Wortley, near Leeds, Yorkshire.

To marry you is the utmost of my wishes; but, remember, I don't engage to marry your sister in case of your death.—Death! How can I think of such a thing, though it be but in joke.

TO THE SAME.

Ireland, 6 Feb. 1777.

My last was merry, you know. I can't say as much for your last. Today you must suffer me to indulge my present turn of mind in transcribing something which was left behind her by a Mrs. Dixon, who poisoned herself not long since at Inniskillen. It was communicated to me by a

gentleman, after a dinner yesterday, who is come hither about business, and lives in the neighbourhood of Inniskillen.

The unhappy woman was not above nineteen years of age. She had been married about two years, and lived with her husband all that time with seeming ease and cheerfulness.

She was remarkably cheerful all the fatal day, had company to dine with her, made tea for them, in the evening set them down to cards, retired to her chamber, and drank her cup of arsenic.

She left a writing on her table, in which is obscurely hinted the sad circumstance which urged her impatience to this desperate act.

Enclosed is an exact copy, even to the spelling.

"This is to let all the world know, that hears of me, that it's no crime I ever committed occasions this my untimely end; but despair of ever being happy in this world as I have sufficient reasons to think so. I own 'tis a sinful remedy, and very uncertain to seek happiness, but I hope that God will forgive my poor soul; Lord have mercy on it! But all I beg is to let none reproach my friends with it, or suspect my virtue or my honour in the least, though I am no more.

"Comfort my poor unhappy mother, and brothers and sisters, and let all mothers take care, and never a force a child as mine did me: but I forgive her, and hopes God will forgive me, as I believe she meant my good by my marriage.

"Oh! that unfortunate day I gave my hand to one, whilst my heart was another's, but hoping that time and prudence would at length return my former peace and tranquility of mind, which I wanted for a long time: but oh! it grieves me to think of the length of eternity; and the Lord save me from eternal damnation; Let no one blame Martin Dixon,* for he is in no fault of it.

"I have a few articles which I have a greater regard for than anything else that's mine, on account of him that gave them to me (but *he* is not to be mentioned)———and I have some well-wishers that I think proper to give them to.

"First, to Betty Balfour, my silver buckles; to Polly Deeryn, my diamond ring; to Betty Mulligan my laced suit, cap, handkerchief, and ruffles; to Peggy Delap, a new muslin handkerchief not yet hemmed, which is in my drawer, and hope for my sake those persons will accept of these trifles, as a testimony of my regard for them.

"I would advise Jack Watson† to behave himself in an honest and obe-

* Her husband.

† Her brother.

dient manner in respect to his mother and family, as he is all she has to depend upon now.

"I now go in God's name, though against his commands, without wrath or spleen to any one upon earth. The very person I die for, I love him more than ever, and forgives him. I pray God grant him more content and happiness than he ever had, and hopes he will forgive me, only to remember such a one died for him.

"There was, not long ago, some persons pleased to talk something against my reputation, as to a man in this town; but now, when I ought to tell the truth, I may be believed: if ever I knew him, or any other but my husband, may I never enter into glory; and them I forgive who said so; but let that man's wife take care of them that told her so; for they meant her no good by it.

"With love to one, friendship to few, and good will to all the world, I die, saying, Lord have mercy on my soul; with *an advice to all people never to suffer a passion of any sort to command them as mine did in spite of me.* I pray God bless all my friends and acquaintance, and begs them all to comfort my mother, who is unhappy in having such a child as I, who is ashamed to subscribe myself an unworthy and disgraceful member of the Church of Scotland,

Jane Watson, otherwise Dixon."

My pen shall not interrupt your meditations hereon, by making a single reflection. We both of us have made, I dare say, too many on it. She too was *Jenny*, and had her Robin Gray.

TO THE SAME.

Ireland, 20 *April*, 1777.

Now you see there is something in dreams. But why is not your alarming letter more particular about your complaint? Do they nurse you as tenderly as I would? Are they careful about your medicines? For God's sake tell them all round what happened lately here to Sir William Yorke, the chief justice.

Sir William was grievously afflicted with the stone. In his severe fits he used to take a certain quantity of laudanum drops. On calling for his usual remedy, during the most racking pains of his distemper, the drops could not be found The servant was dispatched to his apothecary; but, instead of laudanum drops, he asked for laudanum. A quantity of laudanum was accordingly sent, with special charge not to give Sir William more than twenty-four drops. But the fellow, forgetting the caution,

gave the bottle into his master's hands, who, in his agony, drank up the whole contents, and expired in less than an hour.

Why, my dearest love, did you conceal your illness from me so long? Now, you may have revealed the situation of your health to me too late. God forbid! If I write more I shall write like a madman. A gentleman takes this who sails for England to-day. To-morrow or next day the colonel will be here. If Lord S., as I have reason to expect, has influenced him to refuse me leave of absence, I will most certainly sell out directly, which I have an opportunity to do. At any rate I will be with you in a few days. If I come without a commission you must not be angry. To find you both displeased and ill will be too much for your poor H. For my sake, be careful. Dr. ——— I insist upon your not having any longer. His experience and humanity are upon a par. Positively you must contrive some method for me to see you. How can love like mine support existence, if you should be ill, and I should not be permitted to see you! But I can neither think nor write any more.

TO THE SAME.

Cannon Coffee-house, Charing Cross, 4 May, 1777.

Did you get the incoherent scrawls I wrote you yesterday and the day before? Yours I have this instant read and wept over. Your feeble writing speaks you weaker than you own. Heavens! am I come hither only to find I must not see you? Better had I staid in Ireland. Yet, now do I breathe the same air with you. Nothing but your note last night could have prevented me, at all hazards, from forcing my way to your bedside. In vain did I watch the windows afterwards, to gain information from the passing lights, whether you were better or worse. For God of Heaven's sake send me an answer to this.

TO MR. ———.

A. 4 May, 1777, *at 3 o'clock.*

My dear Soul,—At the hazard of my life I write this to tell you Heaven has spared my life to your prayers. The unfinished note, which my hasty maid—I can't go on.

Sir,—My dear Mistress bids me say, Sir, that her disorder has taken a turn within this hour, and the physicians have pronounced her out of all danger. Honoured Sir, I humbly crave your pardon for sending away my scribble just now, which I am afraid has made you uneasy; but indeed, Honoured Sir, I thought it was all over with my poor dear mistress; and then, I am sure, I should have broke my heart. For, to be sure, no ser-

vant ever had a better, nor a kinder mistress. Sir, I presume to see your Honour to-morrow. My mistress fainted away as she began this, but is now better.

A. 6 o'clock.

The letter of Hackman giving an account of the death of Dr. Dodd, forms an interesting addition to the trial of that unfortunate clergyman, already reported in this volume.

TO MISS ———.

Cannon Coffee-house, 27 June, 1777, 5 o'clock.

As I want both appetite and spirits to touch my dinner, though it has been standing before me these ten minutes, I can claim no merit in writing to you. May you enjoy that pleasure in your delightful situation on the banks of the Thames, which no situation, no thing upon earth, can in your absence afford me!

Do you ask me what has lowered my spirits to-day? I'll tell you. Don't be angry, but I have been to see the last of poor Dodd. Yes, "Poor Dodd!" though his life was justly forfeited to the laws of his country. The scene was affecting—it was the first of the kind I had ever seen; and shall certainly be the last. Though had I been in England when Peter Toloso was deservedly executed in February, for killing Duarzey, a young Frenchwoman with whom he lived, I believe I should have attended the last moments of a man who could murder the object of his love. For the credit of my country, this man (does he deserve the name of *man*?) was a Spaniard.

Do not think I want tenderness, because I was present this morning. Will you allow yourself to want tenderness, because you have been present at Lear's madness, or Ophelia's? Certainly not. Believe me (you *will* believe me, I am sure)—I do not make a profession of it, like George S. Your H. is neither *artiste* nor *amateur*—nor do I, like Paoli's friend and historian, hire a window by the year, which looks upon the Grassmarket at Edinburgh.

Raynall's book you have read, and admire. For its humanity it merits admiration. The Abbé does not countenance an attendance on scenes of this sort by his writings, but he does by his conduct. And I would sooner take Practice's word than Theory's. Upon my honour Raynall and Charles Fox, notwithstanding the rain, beheld the whole from the top of an unfinished house, close by the stand in which I had a place.

However meanly Dodd behaved formerly, in throwing a blame of his

application to the chancellor on his wife, he certainly died with resolution. More than once to-day I have heard that resolution ascribed to his hope that his friend Hawes, the humane founder of the Humane Society, would be able to restore him to life. But I give him more credit. Besides, Voltaire observes that the courage of a dying man is in proportion to the number of those who are present——and St. Evremond (the friend of the French M.) discovered that *les Anglois surpassent toutes les nations a mourir*. Let me surpass all mankind in happiness, by possessing my *Ninon* for life, and I care not how I die.

Some little circumstances struck me this morning, which, however, you may refuse to forgive me for so spending my morning, I am sure you would not forgive me were I to omit. Before the melancholy procession arrived, a sow was driven into the space left for the sad ceremony, nor could the idea of the approaching scene which had brought the spectators together, prevent too many from laughing, and shouting, and enjoying the poor animal's distress, as if they had only come to Tyburn to see a sow baited.

After the arrival of the procession, the preparation of the unhappy victim mixed something disagreeably ludicrous with the solemnity. The tenderest could not but feel it, though they might be sorry that they *did* feel it. The poor man's wig was to be taken off, and the night-cap brought for the purpose was too little, and could not be pulled on without force. Valets de chambre are the greatest enemies to heroes. Every guinea in my pocket would I have given, that he had not worn a wig, or that (wearing one) the cap had been bigger.

At last arrived the moment of death. The driving away of the cart was accompanied with a noise which best explained the feelings of the spectators for the sufferer. Did you never observe, at the sight or the relation of anything shocking, that you closed your teeth hard, and drew in your breath hard through them, so as to make a sort of hissing sound? This was done so universally at the fatal moment, that I am persuaded the noise might have been heard at a considerable distance. For my own part, I detected myself, in a certain manner, accompanying his body with the motion of my own; as you have seen people writhing and twisting and biassing themselves, after a bowl which they have just delivered.

Not all the resuscitating powers of Mr. Hawes can, I fear, have any effect; it was so long before the mob would suffer the hearse to drive away with the body.

Thus ended the life of Dr. Dodd. How shocking that a man with whom

I have eaten and drunk, should leave the world in such a manner! A manner which, from familiarity, has almost ceased to shock us, except when our attention is called to a Perreau or a Dodd. How many men, how many women, how many young, and, as they fancy, tender females, with all their sensibilities about them, hear the sounds, by which at this moment I am disturbed, with as much indifference as they hear muffins and matches cried along the streets! *The last dying speech and confession birth, parentage, and education*—Familiarity has even annexed a kind of humour to the cry. We forget that it always announces the death (and what a death!) of one fellow being; sometimes of half a dozen, or even *more*.

A lady talks with greater concern of cattle-day than of hanging-day. And her maid contemplates the mournful engraving at the top of a dying speech, with more indifference than she regards the honest tar hugging his sweetheart at the top of "Black-eyed Susan." All that strikes us is the ridiculous tone in which the halfpenny ballad singer chants the requiem. We little recollect that, while we are smiling at the voice of the charmer, wives or husbands (charm she never so wisely), children, parents, and friends, perhaps all these, and more than these, as pure from crimes as we, and purer still perhaps, are weeping over the crime and punishment of the darling and support of their lives. Still less do we at the moment (for the printer always gets the start of the hangman, and many a man has bought his own dying-speech on his return to Newgate by virtue of a reprieve)—still less do we ask ourselves, whether the wretch, who, at the moment we hear this (which ought to strike us as an awful sound) finds the halter of death about his neck, and now takes the longing farewell, and now hears the horses whipped and encouraged to draw from under him for ever, the cart which he now, now, now feels depart from his lingering feet—whether this wretch really deserved to die more than we. Alas! were no spectators to attend executions but those who deserve to live, Tyburn would be honoured with much thinner congregations.

The correspondence with, and relative to Miss Reay before the murder, terminates thus:—

TO MISS R. 1 *March*, 1779.

Though we meet to-morrow, I must write you two words to-night just to say, that I have all the hopes in the world, ten days at the utmost will complete the business. When that is done, your only objection is removed along with your debts; and we may, surely, then be happy, and

be so *soon*. In a month, or *six weeks at furthest*, from this time, I might certainly call you mine. Only remember that my *character*, now I have taken orders, makes expedition necessary. By to-night's post I shall write into Norfolk about the alterations at *our* parsonage.—To-morrow.—G.'s friendship is more than I can ever return.

TO CHARLES ———, ESQ.

20 *March*, 1779.

Your coming to town, my dear friend, will answer no end. G. has been such a friend to me, it is not possible to doubt her information.—— What interest has she to serve? Certainly none. Look over the letters, with which I have so pestered you for these two years, about this business. Look at what I have written to you about G. since I returned from Ireland. She can only mean *well* to me. Be not apprehensive. Your friend will take no step to disgrace himself. What I shall do I know not. Without her I do not think I can exist. Yet I will be, you shall see, a *man*, as well as a lover. Should there be a rival, and should he merit chastisement, I know you'll be my friend. But I'll have ocular proof of everything before I believe. Yours ever.

TO THE SAME.

6 *April*, 1779.

It signifies not. Your reasoning I admit. Despair goads me on. Death only can relieve me. By what I wrote yesterday, you must see my resolution was taken. Often have I made use of my key to let myself into the A., that I might die at her feet. She gave it me as the key of love—Little did she think it would ever prove the key of death. But the loss of Lady H. keeps Lord S. within.

My dear Charles, is it possible for me to doubt G.'s information? Even you were staggered by the account I gave you of what passed between us in the Park. What then have I to do, who only lived when she loved me, but to cease to live now she ceases to love? The propriety of suicide, its cowardice, its crime—I have nothing to do with them. All I pretend to prove or disprove is my misery, and the possibility of my existing under it. Enclosed are the last dying words and confession of poor Captain J., who destroyed himself not long ago. But these lines are not the things which have determined me. There are many defects in the reasoning of them, though none in the poetry.——His motives are not mine, nor are his principles mine. *His* ills I could have borne. He told me of his inducements, poor fellow! But I refused to allow them. Little did I imagine that I should ever have inducements, as I now have, which I *must*

allow. These extraordinary lines are said to be his. Yet, from what I knew of him, I am slow to believe it. They strike me as the production of abilities far superior to his; of abilities sent into the world for some particular purpose, and which Providence would not suffer to quit the world in such a manner.

Till within this month, till G.'s information, I thought of self-murder as you think of it. Nothing now is left for me but to leap the world to come. If it be a crime, as I too much fear, and we are accountable for our passions, I must stand the trials and the punishment. My invention can paint no punishment equal to what I suffer here.

Think of those passions, my friend——those passions of which you have so often, since I knew Miss ——, spoken to me and written to me. If you will not let me fly from my misery, will you not let me fly from my passions? They are a pack of bloodhounds which will inevitably tear me to pieces. My carelessness has suffered them to overtake me, and now there is no possibility but this, of escaping them. The hand of Nature heaped up every species of combustible in my bosom. The torch of love has set the heap on fire. I must perish in the flames. At first I might perhaps have extinguished them——now they rage too fiercely. *If* they can be smothered, they can never be got under. Suppose they should consume any other person besides myself. And who is he will answer for passions such as mine?—At present, I am innocent.

The following letters were written by Hackman after he committed the fatal act:

TO CHARLES ——, ESQ.

Tothill-fields, 8th April, 1779.

I am alive—and she is dead; I shot her, and not myself. Some of her blood and brains is still upon my clothes. I don't ask you to speak to me—I don't ask you to look at me, only come hither, and bring me a little strong poison; such as is strong enough. Upon my knees I beg, if your frendship for me was sincere, do, *do* bring me some poison.

TO THE SAME.

9th April, 79.

Your note just now, and the long letter I received the same time, which should have found me the day before yesterday, have changed my resolution. The promise you desire I most solemnly give you. I will make no attempt upon my life. Had I received your comfortable letter when you meant I should, I verily do not think this would have happened.

Pardon what I wrote to you about the poison. Indeed I am too composed for any such thing now. Nothing should tempt me. My death is all the recompense I can make to the laws of my country. Dr. V. has sent me some excellent advice, and Mr. H. has reputed all my false arguments. Even such a being as I finds friends.

Oh, that my feelings and his feeling would let me see my *dearest* friend. Then I would tell you how this happened.

TO THE SAME.

Newgate, 14th April, 1779.

My best thanks for all your goodness since this day se'nnight. Oh, Charles, this is about the time. I cannot write.

What follows was written after the unhappy man's conviction. The first letter, one of noble and generous intent, was from Lord Sandwich.

TO MR. HACKMAN, IN NEWGATE.

17 *April,* 79.

If the murderer of Miss ——— wishes to live, the man he has most injured will use all his interest to procure his life.

The Condemned Cell in Newgate, 17 *April,* 1779.

The murderer of her whom he preferred, far preferred, to life, suspects the hand from which he has just received such an offer as he neither desires nor deserves. His wishes are for death, not for life. One wish he has. Could he be pardoned in this world by the man he has most injured—oh, my Lord, when I meet her in another world, enable me to tell her (if departed spirits are not ignorant of earthly things) that you forgive us both, that you will be a father to her dear infants! J. H.

TO CHARLES ———, ESQ.

Newgate, Saturday night, 17 *April,* 1779.

My dear Charles,—The clock has just struck eleven. All has for some time been quiet within this sad abode. Would that all were so within my sadder breast!

That gloominess of my favourite Young's *Night Thoughts*, which was always so congenial to my soul, would have been still heightened, had he ever been wretched enough to hear St. Paul's clock thunder through the still ear of night, in the condemned walls of Newgate. The sound is truly solemn—it seems the sound of death.

Oh, that it were death's sound! How greedily would my impatient ears devour it!

And yet—but one day more. Rest, rest, perturbed spirit, till then.

And then——

My God, my Creator, my first Father! Thou who madest me as I am with these feelings, these passions, this heart! Thou who art all might, and all mercy! Well Thou knowest I did not, like too many of Thy creatures, persuade myself there was no God, before I persuaded myself I had a right over any life. O then, my Father, put me not eternally from Thy paternal presence! It is not pnnishments, nor pains, nor hell I fear: what man can bear I can. My fear is to be deemed ungrateful to Thy goodness, to be thought unworthy Thy presence, to be driven from the light of Thy countenance.

Well Thou knowest I could not brook the thoughts of wanting gratitude to things beneath me in Thy creation—to a dog, a horse; almost to things inanimate—a tree, a book. And thinkest Thou that I could bear the charge of want of gratitude to Thee.

And, might—O might I resign the joys of the other world, which neither eye can see, nor tongue can speak, nor imagination dream, for an eternal existence of love and bliss with her, whom——

Presumptuous murderer! The bliss you ask were paradise.

My Father, who art in Heaven, I bow before Thy mercy; and patiently abide my sentence.

These papers, which will be delivered to you after my death, my dear friend, are not letters. Nor know I what to call them. They will exhibit, however, the picture of a heart which has ever been yours more than any other man's.

How have I seen the poor soul affected at that recitative of Iphis in her favourite Jephtha!

> "Ye sacred priests, whose hands ne'er yet were stained
> With human blood!"

To think that I should be her priest, her murderer! In one of her letters she tells me, I recollect, that she could die with pleasure by my hand, she is sure she could. Poor soul! little did she think——

It is odd, but I know for a certainty that this recitative and the air which follows it, "Farewell," &c., were the last words she ever sung. Now I must say, and *may* say, *experimentally*,

"Farewell, thou busy world, where reign
Short *hours* of joy, and *years* of pain!

I *may* not add,

"Brighter scenes I seek above,
In the realms of peace and *love*."

Love! Gracious God, this word in this place, at this time!
Oh!

Newgate, Sunday, 18 *April,* 4 *in the morning.*

Oh, Charles, Charles——torments, tortures! Hell, and worse than hell!

When I had finished my last scrap of paper, I thought I felt myself composed, resigned. Indeed I was so—I am so now.

I threw my wearied body—wearied, Heaven knows, more than any labourer's with the workings of my mind—upon the floor of my dungeon.

Sleep came uncalled, but only came to make me more completely cursed.

This world was past, the next was come; but after that, no other world. All was revealed to me. My eternal sentence of mental misery (from which there was no flight), of banishment from the presence of my Father, of more than poetry e'er feigned or weakness feared, was past, irrevocably past.

Her verdict too of punishment was pronounced. Charles! she—Yes, she was punished; and by whose means punished?

Even in her angel mind were failings, which it is not wonderful I never saw, since Omniscience, it seemed, could hardly discern them. O Charles, these foibles, so few, so undiscernible, were still, I thought in my dream, to be expiated. For my hand sent her to heaven before her time, with all her few foibles on her head.

Charles, I saw the expiation; these eyes beheld her undergo the heavenly punishment.

That passed; she was called, I thought, to the reward of her ten thousand virtues.

Then, in very deed, I began my hell, my worse than ever woman dreamed of hell. Charles, I saw her, as plainly as I see the bars of my dungeon, through which, the eye of day looks upon me now, for almost the last time. Her face, her person, were still more divine than when on earth—they were cast anew, in angel moulds. Her mind, too, I beheld as

plainly as her face; and all its features. That was the same—that was not capable of alteration for the better.

But what saw I else? That mind, that person, that face, that angel was in the bosom of another angel. Between us was a gulph—a gulph impassible! I could not go to her, neither could she come to me.

No; nor did she wish it. There was the curse.

Charles, she saw me, where I was, steeped to the lip in misery. She saw me, but without a tear, without one sigh.

One sigh for her, I thought, and I could have borne all my sufferings.

A sigh, a tear! She smiled at all my sufferings. Yes, she, even she enjoyed the tortures, the rackings of my soul. She bade her companion angel too enjoy them. She seemed to feast upon my griefs, and only turned away her more than damning eyes, to turn them on her more than blest companion.

Flames and brimstone—corporal sufferance—were paradise to such eternal mental hell as this.

Oh! how I rejoiced, how I wept, sobbed with joy, when I awoke, and discovered it was only a dream, and found myself *in the condemned cell of Newgate.*

Newgate, Sunday, 18 *April,* 79, *5 o'clock in the afternoon.*

Since I wrote to you this morning I have more than once taken up my pen. For what can I do, which affords me more pleasure, than writing to such a friend as you are, and have been, to me?

Pleasure! Alas, what business has such a wretch as I with such a word as that? However, pouring myself out to you thus upon paper is, in some measure, drawing off my sorrows. It is not thinking.

Cruel G.! and yet I can excuse her. She knew not of what materials I was made. Lord S. wished to preserve a treasure which any one would have prized. G. was employed to preserve the treasure. And she suspected not that my soul, my existence, were wrapped up in it.

Oh, my dear Charles, that you could prevail upon yourself to visit this sad place! And yet—our mutual feelings would render the visit useless. So it is better thus.

Now, perhaps you are enjoying a comfortable and happy meal. There, again, my misfortunes! Of happiness and comfort for the present, I have robbed you. H. has murdered happiness.

But this is the hour of dinner. How many are now comfortable and happy? While I——

How many, again, with everything to make them otherwise, are, at this moment, miserable?

The meat is done too little, or too much—(Should the pen of fancy ever take the trouble to invent letters for me, I should not be suffered to write to you thus, because it would seem *unnatural*. Alas! they know not how gladly a wretch like me forgets himself)—The servant, I say, has broken something—some *friend* (as the phrase is) does not make his promised appearance, and consequently is not eye-witness of the unnecessary dishes which the family pretends to be able to afford; or some *friend* (again) drops in unexpectedly, and surprises the family with no more dishes upon the table than are necessary.

Ye home-made wretches, ye ingenious inventors of ills, before ye suffer yourselves to be soured and made miserable, for the whole remainder of this Sunday, by some trifle or another, which does not deserve the name of accident, look here, behold, indeed, that misery of which your discontentedness complains!

Peep through the grate of this my only habitation, ye who have town-houses and country-houses. Look into my soul; recollect in how few hours I am to die—die in what manner, die for what offence!

Now go,—be cross, and quarrel with your wives or your husbands, or your children, or your guests; begin to curse and to swear, and call Almighty God to witness that you are the most miserable, unlucky wretches upon the face of the earth; because the meat is roasted half-a-dozen turns too much, or because your cooks have not put enough seasoning into your pies.

I was obliged to lay down my pen; such a picture as this, in which myself made principal figure, was rather too much.

Good God! to look back over the dreadful interval between to-day and last October two years. What a tale would it make of woe. Take warning from me, my fellow creatures, and do not love like H.

Still Sunday, 7 o'clock.

When these loose, incoherent papers shall come into your hands after my death, it will afford you some consolation to know my temper of mind at last.

Charles, as the awful moment approaches, I feel myself more, and more, and more composed, and calm, and resigned.

It always, you know, was my opinion, that man could bear a great load of affliction better than a small one. I thought so then, now I am sure of

it. This day se'nnight, I was mad, perfectly mad. This afternoon I am all mildness.

This day se'nnight! To look back is death—is hell. 'Tis almost worse than to look forward.

Let me endeavour to get out of myself.

In proof of that opinion which you always ridiculed—go to the gaming table—observe that adventurer, who is come with the last fifty he can scrape together. See, how he gnashes his teeth, bites his fists, and works all his limbs! He has lost the first throw—his fifty are reduced to forty. Observe him now—with what composure his arms are wrapped about him. What a smooth calm has suddenly succeeded to that dreadful storm which so lately tore up his whole countenance! Whence the reason think you? Has fortune smiled on him? Directly the contrary. His forty are now dwindled to five. His all, nay, more, his very existence, his resolution to live or die, depend upon this throw. Mark him—how calmly, how carelessly he eyes the box. I am not sure he does not almost wish to lose, that he may defy ill-luck, and tell her she has done her worst.

See—

> On a moment's point, th' important dye
> Of life and death spins doubtful ere it falls,
> And turns up—death.

I'll surrender my opinion for untenable, if a common observer, from his countenance, would not rather point him out as the winner, than the agitated person yonder who really has won.

——Since I wrote what you last read, I caught myself marching up and down my cell with the step of haughtiness; hugging myself in my two arms and muttering between my grating teeth, "What a *complete wretch* I am!"

But I can now no longer fly from myself. In a few short hours the hand which is now writing to you, the hand which———

I will not distress either you or myself. My life I owe to the laws of my country, and I will pay the debt. How I felt for poor Dodd! Well—you shall hear that I died like a man and a Christian. I cannot have a better trust than in the mercy of an all-just God. And, in your letters, when you shall these unhappy deeds relate, tell of me as I am. I forget the passage, 'tis in Othello.

You must suffer me to mention the tenderness and greatness of mind of my dear B. The last moments of my life cannot be better spent than

in recording this complicated act of friendship and humanity. When we parted, a task too much for us both, he asked me if there was anything for which I wished to live. Upon his pressing me, I acknowledged I was uneasy, very uneasy, lest Lord S. might withdraw an allowance of fifty pounds a year, which I knew he made to her father. "Then," said B. squeezing my hands, bursting into tears, and hurrying out of the room, "I will allow it him." The affectionate manner in which he spoke of my S. would have charmed you. God for ever bless and prosper him! and my S. and you! and—

[The note which follows was written with a pencil. All that was legible is here preserved, though the sense is incomplete.]

TO THE SAME.

Tyburn.

My dear Charles,—Farewell for ever in this world! I die a sincere Christian and penitent, and everything I hope that you can wish me. Would it prevent my example's having any bad effect if the world should know how I abhor my former ideas of suicide, my crime, ...
. . . . . will be the best judge. Of her fame I charge you to be careful. My poor S. will. . . . . .
. . . . . Your dying H

ROBERT, LORD BALFOUR OF BURLEIGH.

THE case of this noble criminal, though one now little known, has some remarkable circumstances attending it.

The Hon. Robert Balfour was, when he committed the crime, son and heir apparent to the fourth Lord Balfour of Burleigh. He was born in 1687, at the seat of his father, Lord Burleigh, near Kinross; and having studied successively at Orwell, near the place of his birth, and at St. Andrews, so successfully as to obtain considerable credit, he returned home, being intended by his father to join the army of the Duke of Marlborough, then in Flanders. At his father's house he became enamoured of Miss Robertson, the governess of his sisters, and in order to break off the connexion he was sent to make the tour through France and Italy, the young lady being dismissed from the house of her patron. Balfour, before his quitting Scotland, declared his intention, if ever the young lady should marry, to murder her husband; but deeming this to be merely an empty threat, she was, during his absence, united to Henry Stenhouse, a schoolmaster at Inverkeithing, with whom she went to live at Inverkeithing. On his return to his father's house, he learned this fact, and immediately proceeded to put his threat into execution. Mrs. Stenhouse, on seeing him, remembering his expressed determination, screamed with affright; but her husband, unconscious of offence, advanced to her aid, and in the interim, Balfour, entering the room, shot him through the heart in the midst of his scholars. The offender escaped, but was soon afterwards apprehended near Edinburgh; and being tried, was convicted and sentenced to be beheaded by the *maiden*,* on account of the nobility of his family.

---

* The following description of the Maiden, by Mr. Pennant, may not prove uninteresting:—"This machine of death is now destroyed; but I saw one of the same kind in a room under the Parliament-house in Edinburgh, where it was introduced by the Regent Morton, who took a model of it as he passed through Halifax, and at length suffered by it himself. It is in form of a painter's easel, and about ten feet high; at four feet from the bottom is the cross bar on which the felon lays his head, which is kept down by another placed above. In the inner edges of the frame are grooves; in

The subsequent escape of the criminal from an ignominious end is not the least remarkable part of his case. The scaffold was actually erected for the purpose of his execution; but on the day before it was to take place his sister went to visit him, and, being very like him in face and stature, they changed clothes, and he escaped from prison. His friends having provided horses for him, he proceeded to a distant village, where he lay concealed until an opportunity was eventually offered him of quitting the kingdom. His father died in the reign of Queen Anne, but he had first obtained a pardon for his son, who succeeded to the title and honours of the family, and died in the year 1752, sincerely penitent for his crime.

Balfour's honours, however, became forfeit before his decease, for he had been present at the meeting at Lochmaben, the 29th May, 1714, when the Chevalier's health was publicly drunk at the Cross, and he engaged in the rising of the following year, for which he was attainted by Act of Parliament.

---

these is placed a sharp axe, with a vast weight of lead, supported at the very summit with a peg: to that peg is fastened a cord, which the executioner cutting, the axe falls, and does the affair effectually, without suffering the unhappy criminal to undergo a repetition of strokes, as has been the case in the common method. I must add, that if the sufferer is condemned for stealing a horse or cow, the string is tied to the beast, which, on being whipped, pulls out the peg, and becomes the executioner."

THE PARRICIDE BY MISS BLANDY.

THE case of Miss Blandy appears at great length in the State Trials, and a statement at its conclusion would go to shew that the unhappy woman was ignorant of the deadly nature of the drug which she administered to her father. This could not possibly have been so, in accordance with the evidence adduced. The details of the commission of the crime, given at the trial, are throughout disagreeable, sometimes disgusting, and nowhere very interesting. A summary therefore of the horrid affair is all that is here presented. To begin with the parties concerned.

Mr. Francis Blandy was an attorney residing at Henley-on-Thames, and held the office of town-clerk of that place. He possessed ample means, and his house became the scene of much gaiety. As report gave to his daughter a fortune of no inconsiderable extent, and as besides, her manners were sprightly and affable, and her appearance engaging, her hand was sought in marriage by many persons whose rank and wealth rendered them fitting to become allied to her. But among all these visitants, none were received with greater pleasure by Mr. or Mrs. Blandy, or their daughter, than those who held commissions in the army. This predilection was evinced in the introduction of the Hon. William Henry Cranstoun, at that time engaged on the recruiting service for a foot regiment, in which he ranked as Captain.

Captain Cranstoun was the second son of William, fifth Lord Cranstoun, a Scotch peer of ancient family, and through the instrumentality of his uncle, Lord Mark Ker, he had obtained his commission. In the year 1745, he had married Anne, sister of Sir David Murray, Bart., of Stanhope, a young lady of good family, with whom he received an ample fortune; and in the year 1752, he was ordered to England to endeavour to procure his complement of men for his regiment. His bad fortune led him to Henly, and there he formed an intimacy with Mary Blandy. At this time Cranstoun was forty-six years of age, while Miss Blandy was twenty years his junior; and it is somewhat extraordinary that a person of her accomplishments and beauty should have formed a *liaison* with a man so much

older than herself, and who besides, is represented as having been devoid of all personal attractions.

A short acquaintance, it appears, was sufficient to excite the flame of passion in the mind of the gallant captain, as well as of Miss Blandy; and ere long, their troth was plighted. The captain, however, felt the importance of forestalling any information which might reach the ears of his new love of the existence of any person who possessed a better right to his affections than she; and he therefore informed her that he was engaged in a disagreeable lawsuit with a young lady in Scotland who had claimed him as her husband; but he assured her that it was a mere affair of gallantry, of which the process of the law would in the course of a very short time relieve him. This disclosure being followed by an offer of marriage, Cranstoun was referred to Mr. Blandy, and he obtained an easy acquiescence on his part in the wishes expressed by the young lady.

At this juncture, an intimation being conveyed to Lord Ker of the proceedings of his nephew, his lordship took instant steps to apprise Mr. Blandy of the position of Cranstoun. Prejudice had, however, worked its end as well with the father as the daughter, and the assertion of the intended bridegroom of the falsehood of the allegations made was sufficient to dispel all the fears which the report of Lord Ker had raised. But although Captain Cranstoun had thus temporarily freed himself from the effects of the imputation cast upon him, he felt that some steps were necessary to get his first marriage annulled, and he at length wrote to his wife, requesting her to disown him for a husband. The substance of this letter was, that, having no other way of rising to preferment but in the army, he had but little ground to expect advancement there, while it was known he was encumbered with a wife and family; but could he once pass for a single man, he had not the least doubt of being quickly promoted, which would procure him a sufficiency to maintain her as well as himself in a genteeler manner than now he was able to do. "All, therefore," (adds he) "I have to request of you is, that you will transcribe the enclosed copy of a letter, wherein you disown me for a husband; put your maiden name to it, and send it by the post. All the use I shall make of it shall be to procure my advancement, which will necessarily include your own benefit. In full assurance that you will comply with my request, I remain your most affectionate husband."

Mrs. Cranstoun, ill as she had been treated by her husband, and little hope as she had of more generous usage, was, after repeated letters had passed, induced to give up her claim, and at length sent the desired com-

munication. On this, an attempt was made by him to annul the marriage, this letter being produced as evidence; but the artifice being discovered, the suit was dismissed, with costs. Mr. Blandy soon obtained intelligence of this circumstance, and convinced now of the falsehood of his intended son-in-law, he conveyed a knowledge of it to his daughter; but she and her mother repelled the insinuations which were thrown out, and declared, in obedience to what they had been told by the gallant captain, that the suit was not yet terminated, for that an appeal to the House of Lords would immediately be made. Soon after this, Mrs. Blandy died, and her husband began now to shew evident dislike for Captain Cranstoun's visits; but the latter complained to the daughter of the father's ill-treatment, and insinuated that he had a method of conciliating his esteem; and that when he arrived in Scotland he would send her some powders proper for the purpose; on which, to prevent suspicion, he would write "Powders to clean the Scotch pebbles."

Cranstoun sent her the powders, according to promise, and Mr. Blandy being indisposed on the Sunday se'nnight before his death, Susan Gunnel, a maid-servant, made him some water-gruel, into which Miss Blandy conveyed some of the powder, and gave it to her father; and repeating this draught on the following day, he was tormented with the most violent pains in his bowels.

The disorder, which had commenced with symptoms of so dangerous a character, soon increased; and the greatest alarm was felt by the medical attendants of the old gentleman, that death alone would terminate his sufferings. Every effort was made by which it was hoped that his life could be saved; but at length, when all possibility of his recovery was past, his wretched daughter rushed into his presence, and in an agony of tears and lamentations, confessed that she was the author of his sufferings and of his inevitable death. Urged to account for her conduct, which to her father appeared inexplicable, she denied, with the loudest asseverations, all guilty intention. She repeated the tale of her love, and of the insidious arts employed by Cranstoun, but asserted that she was unaware of the deadly nature of the powders, and that her sole object in administering them was to procure her father's affection for her lover. Death soon terminated the accumulated misery of the wretched parent, and the daughter had scarcely witnessed his demise, ere she became an inmate of a jail.

At the ensuing assizes at Oxford, on the 3rd of March, 1752, Miss Blandy was tried for the wilful murder of her father, before the Hon. Heneage Legge (second son of the second Baron and first Earl of Dartmouth) and Sir Sydney Stafford Smythe, Knt. two of the Barons of the

Court of Exchequer. After a long investigation she was found guilty. She addressed the jury, repeating the story which she had before related; but all was of no avail, and sentence of death was passed upon her by Mr. Baron Legge, who had previously summed up the case most lucidly and elaborately.

After conviction, the wretched woman behaved with the utmost decency and penitence. She spent the night before her execution in devotion; and at nine in the morning of the 6th of April, 1752, she left her apartment to be conducted to the scaffold, habited in a black bombazin dress, her arms being bound with black ribands. She died declaring her innocence of intending to poison her father. Her body being put into a hearse, was conveyed to Henly, and interred with her parents, at one o'clock on the following morning.

Cranstoun, for his concern in the killing of Mr. Blandy, was prosecuted to outlawry. His ultimate fate was this. Having heard of Miss Blandy's commitment to Oxford jail, he concealed himself some time in Scotland, and then escaped to Boulogne, in France. Meeting there with Mrs. Ross, who was distantly related to his family, he acquainted her with his situation, and begged her protection; on which she advised him to change his name for her maiden name of Dunbar. Some officers in the French service, who were related to his wife, hearing of his concealment, vowed revenge, if they should meet with him, for his cruelty to the unhappy woman: on which he fled to Paris, from whence he went to Furnes, a town in Flanders, where Mrs. Ross had provided a lodging for his reception. He had not been long at Furnes when he was seized with a severe fit of illness, which brought him to a degree of reflection to which he had been long a stranger. At length he sent for a father belonging to an adjacent convent, and received absolution from his hands, on declaring himself a convert to the Catholic faith, and a sincere penitent.

Cranstoun died on the 30th of November, 1752; and the fraternity of monks and friars looked on the conversion of this great sinner as an object of such importance, that solemn Mass was sung on the occasion, and the body was followed to the grave not only by the ecclesiastics, but by the magistrates of the town.

THE FRAUD UPON LORD CLARENDON.

THE nobleman, whose great charity and unbounded benevolence made him the dupe of the following extraordinary fraud, was Thomas Villiers, second Earl of Clarendon, who succeeded his father the first Earl in 1786, and died unmarried in 1824, leaving his honors to his brother John, the third Earl, the father of George William, the present Earl of Clarendon, now Lord Lieutenant of Ireland.

The person who practised the cheat, Henry Perfect, was a man of respectable parentage, and of excellent abilities. His father was a clergyman living in Leicestershire, and his son, at the completion of his education, entered the army as a lieutenant in the 69th regiment of foot. He was twice married, and received a handsome property with each of his wives; but their estates being held during life only, upon the demise of his second helpmate he was thrown upon his own resources. His commission had long since been disposed of, and he determined to endeavour to procure contributions by writing letters to persons of known charitable dispositions, setting forth fictitious details of distress. In the course of his numerous impositions, he assumed the various and imaginary characters of the Rev. Mr. Paul, the Rev. Daniel Bennett, Mrs. Grant, Mrs. Smith, and others; but at last he was detected in an attempt to procure money from the Earl of Clarendon, whom he addressed in a letter signed "H. Grant."

He was indicted at the Middlessex sessions for this offence; and his trial, which came on at Hicks' Hall, on the 27th of October, 1804, occupied the whole day.

It then appeared that the Earl of Clarendon being at his seat at Wade's Mill, Hertfordshire, in the previous month of July, he received a letter, purporting to be from Mrs. Grant, which stated in substance—

That the writer having heard from a lady, whose name she was not at liberty to reveal, the most charming character of his lordship for kindness and benevolence, she was induced to lay before him a statement of her distressed circumstances. The supposed lady then detailed her case, which was, that she was a native of Jamaica, of an affluent and respectable family;

that a young man, a Scotchman, and surgeon's mate to a man-of-war, was introduced at her father's house, who so far ingratiated himself with her father, that he seriously recommended him to her for her husband. She did not like him, because he was proud, and for ever vaunting of his high family; but as her father's will had always been a law, she acquiesced on condition that he would live at Jamaica. They were accordingly married, and her father gave him one thousand pounds. He, however, soon became discontented with remaining at Jamaica, and continually importuned her to go with him to Scotland; and as her friends joined in the solicitation, she consented. She had now been six months in England; but her husband had always evaded going to Scotland, and had left her whenever she spoke upon the subject. In short he had gamed, drunk, and committed every excess; and within the last six weeks he had died in a rapid decline, leaving her a widow, with two children, and hourly expecting to be delivered of a third. She was not twenty-three years of age, and never knew want till now; but she was left without a shilling to support herself and miserable children: she owed for her husband's funeral, and the apothecary's bill, for which she was afraid of being arrested. To avoid this she was going to seek shelter with a poor widow in Essex; and if his lordship would write to her at the post-office at Harlow, she would, if brought to bed in the meanwhile, get some safe person to go for the letter.

His lordship's answer evinced the benevolence of his heart. He expressed his readiness to alleviate her distress, but justly observed that her tale ought to be authenticated by something more than the recital of a perfect stranger. He desired to know who the lady was who had recommended the application to him, and assured the writer she need not conceal her, for that he considered it was doing him a great kindness to afford him the means of rendering service to the necessitous. On the 14th of July his lordship received a note nearly as follows:—

"Mrs. Smith, widow of Captain Smith, begged leave to inform Lord Clarendon that Mrs. Grant was brought to bed. It was she who recommended Mrs. Grant to Lord Clarendon; while her husband was living, she had frequently been with him on the recruiting service in Hertfordshire, where she had heard of the benevolent character of his lordship. She added, that Captain Smith, when in Jamaica, had frequently visited Mrs. Grant's father, who was a person of great wealth; that she had herself done more than she could afford for an amiable and unfortunate young woman. She had no doubt but that as soon as her letter should reach Jamaica, Mrs. Grant's father would send her abundant relief; but till then she might, without the friendship of some individual, be totally lost."

In consequence of this late note, his lordship returned an answer, and enclosed a draft for five guineas, offering at the same time to write to any person at Harlow who might be of assistance to her, particularly to any medical person. On July the 23rd, the supposed Mrs. Grant wrote again to his lordship, acknowledging the receipt of the five guineas, and stating that she had the offer of a passage home: but she said that she wished to see his lordship, to return her grateful thanks for his kindness. At the same time she was extremely delicate, lest their meeting should be misconstrued by a malignant world, and entreated that it might take place a little distance from town. The answer to this letter she begged might be addressed to A. B. C. at George's Coffee-house, to which place she would send for it. His lordship, at her request, wrote an answer, and appointed the Bell Inn at Kilburn. Before the arrival of the day of meeting, however, his lordship received another letter from Mrs. Grant, stating that ever since she came to town, she had met nothing but trouble. Her last child had died, and she was seized with a milk-fever; that she had twelve shillings left of his lordship's and Mrs. Smith's bounty, when she came to town; that she was afraid of coming further than Whitechapel, lest her creditors might arrest her; and she concluded with the request of the loan of five pounds, to be inclosed in a note addressed to Mr. Paul, to be left at the Saracen's Head Inn, Aldgate. His lordship, in reply to this note, sent the money requested, and with great humanity condoled on her supposed situation. He then proposed to take her into the country, where she might live quiet, and free of expense, until she heard from her friends. The next letter introduced another actor on the stage. It came from the Rev. H. Paul. Mr. Paul, at the desire of Mrs. Grant (then said to be delirious), acknowledged the receipt of the five pounds. He would write again, and say anything Mrs. Grant might dictate in a lucid interval. He begged his answer might be left at the Chapter Coffee-house. His lordship accordingly wrote to the Rev. H. Paul, with particular inquires after the state of Mrs. Grant, and proposed to send the proper medical assistance. The Rev Mr. Paul replied to this letter, and stated the description of Mrs. Grant's complaint, which was of a delicate nature. He then stated the high notions of Mrs. Grant, who would not condescend to see any person from his lordship in her present wretched state; and added that she thought her situation such, that it was not delicate to admit any one to see her but those absolutely necessary. Mr. Paul therefore had promised, he said, not to divulge her residence; but declared that in her lucid intervals, Mrs. Grant expressed the utmost anxiety to be enabled to thank her benefactor.

This correspondence produced a meeting between the supposed Rev. H. Paul and his lordship, which took place at the Bell Inn, at Kilburn, on the 8th of August. The prisoner then introduced himself to his lordship as the Rev. Henry Paul. They entered into conversation on the subject of Mrs. Grant, when his lordship asked every question as to her situation, with a view to alleviate it. Mr. Paul said he had not seen her distinctly, for the curtains were closed round her; but the opium had had an effect which he had known it frequently to produce: it had given her eyes more than usual brilliancy: with respect to her lodging, it was a very small room. The woman who attended her seemed a good sort of a woman enough, and she was also attended by a surgeon or apothecary. As Mr. Paul seemed to be a man of respectability, his lordship asked him at what seminary he had been brought up: the prisoner replied he had been educated at Westminster and Oxford, and had the living of St Kitt's, in Jamaica, worth about 700*l.* per annum; that he had property in Ireland, and was going to America on private business. To his lordship's question how he was so fortunate as to meet this young woman, he said it was by an accident, that quite looked like a romance.—He was coming to town in the Ongar stage, in which were a young woman, two children, and a lady, all in mourning. He entered into conversation with the lady, and was surprised to find her the daughter of a person at whose house, in Jamaica, he had himself been frequently received with kindness. Although his business pressed, he determined to stay and afford her some assistance. He then stated that he had that day given her a 2*l* note, which his lordship, at this interview, returned (being the note on which the indictment was founded). He added, that Mrs. Grant's father was extremely affluent, and he should not wonder if he was to remit 500*l.* at the first intelligence of his daughter's situation. His lordship in his evidence said, that he seemed to express himself in language of the purest truth and benevolence; and as he appeared a well-educated gentleman, who had seen the world, he had no suspicion of any fraud.

After this interview a correspondence took place between the pretended clergyman and his lordship, in which the former stated the progression of the patient, Mrs. Grant, towards convalescence, and at her desire requested that linen, poultry, fruit, and wine, might be forwarded, all of which were supplied by the bounty of the noble lord.

At length Mrs. Grant was sufficiently recovered to be able to write to his lordship, and in her letter she expressed her unbounded thanks for the benevolence which she had experienced at his hands, and remarked that but for the friendly introduction of the Rev. Mr. Paul, she believed that she

would have been lost. She then went on to say, that although she had been ordered by her medical attendant to keep herself perfectly quiet, yet she could not resist the temptation of sitting up in bed to write to her benefactor, whom she hoped to be able shortly to thank personally for his numerous kindnesses.

The last letter from Mr. Paul was dated August 23. He acknowledged the receipt of 6*l.* 2*s.* which had been expended for Mrs. Grant; and informed his lordship that the sheet which had been last sent, had, by some accident, been near brimstone, which affected Mrs. Grant very much; that her situation required fine old linen, if his lordship had any such. He apologized, if there should be any inaccuracy in his letter, because he *had a head-ache and some degree of fever.*

The farce now began to draw to its conclusion. His lordship received another letter from Mrs. Grant, dated Saturday, September 1st, in which the supposed lady said:—

"Last Saturday, her father's sister came to town, and found her out. She was a sour old lady, a man-hater, and snarled at the whole sex. She had taken Mrs. G. into the country with her, although she was removed at the peril of her life. The lady she was with was nearly as bad as her aunt; but, as the latter was going out for a few days, her Argus would let her come to town, which would enable her to meet his lordship. As her ill-tempered aunt had given her neither money nor clothes, she begged 4*l.* of his lordship. If this opportunity was lost, she should never be able to see him, as her aunt was a vigilant woman, and hated the men so much, that at the first entrance into her room, finding the Rev. Mr. Paul there, she most grossly affronted him. She could not have any letter addressed in her own name lest it should fall into the hands of her aunt, and therefore begged his lordship to direct to Mrs. Harriet, Post-office, Waltham."

His lordship, in his answer to this letter, expressed some suspicions that he had been duped; in answer to which Mrs. Grant thanked Lord Clarendon for his favours, and declared that she was sorry to think he should conceive himself duped, but he would find his mistake when she got home to the West Indies. In a postscript, she added— "That best of men, Mr. Paul, died suddenly on Saturday last."

This closed the intercourse between his lordship and his correspondents, Mrs. Grant and Mr. Paul Soon afterwards, however, he received another letter from a Rev. Mr. Bennett, setting forth a deplorable tale of misery; but his suspicions being awakened, he employed his steward to trace the supposed Rev. Mr. Bennett, when it turned out to be the prisoner

at the bar, who had imposed himself on his lordship as the Rev. Mr. Paul, that "best of men," whom Mrs. Grant stated to have "died suddenly." His lodgings being searched, a book was found in his own handwriting, giving an account of money received, (by which it appeared that he had plundered the public to the amount of four hundred and eighty-eight pounds within two years,) with a list of the donors' names, among whom were, the Duchess of Beaufort, Lord Willoughby de Broke, Lord Lyttleton, Lady Howard, Lady Mary Duncan, Bishops of London, Salisbury, and Durham, Earls of Kingston and Radnor, Lord C. Spencer, Hon. Mrs. Fox, and others.

More memoranda were also found, which shewed that the prisoner had reduced his mode of proceeding to a perfect system, notes being taken of the style of handwriting which he assumed under his different names, and of the description of sealing-wax, wafer, and paper used in his letters.

The jury found the prisoner guilty, and the Court immediately sentenced him to seven years' transportation. He was sent to Botany Bay in April, 1805.

THE TRIAL OF JAMES STUART OF DUNEARN FOR SHOOTING SIR ALEXANDER BOSWELL.

Sir Alexander Boswell, Bart., of Auchinleck, whose death in a duel forms the melancholy subject of this trial, was the eldest son of James Boswell, the biographer of Dr. Johnson, and the grandson of the quaint but eminent Scotch judge, Alexander Boswell, Lord Auchinleck. The baronetcy was conferred the 16th Aug, 1821, but Sir Alexander did not live long to enjoy it, as this fatal duel occurred the 26th March, 1822. Sir Alexander was succeeded by his son, Sir James Boswell, the present baronet.

The hostile meeting in question took place at Auchtetool, near Balmuto, in Fifeshire, between Sir Alexander Boswell, and James Stuart, Esq. of Dunearn, a Scottish gentleman, of ancient and honourable descent, well known in the literary and political circles of the time. Sir Alexander was attended by the present Marquis of Queensberry, then the Hon. John Douglas, brother of the late Marquess, and Mr. Stuart by James late Earl of Rosslyn. The ball of Mr. Stuart struck Sir Alexander in the shoulder, shattered the shoulder-blade, and was supposed to have entered the spine, as his limbs were quite paralysed. Sir Alexander was carried to Balmuto House, where he expired. The cause of this duel was a song which appeared in a Glasgow paper, entitled the "*Sentinel*," on the 26th of December, which Mr. Stuart ascertained to have been written by Sir Alexander.

Mr. Stuart was accordingly tried before the High Court of Justiciary, for the murder of Sir Alexander Boswell, to which he pleaded "*Not Guilty.*"

The main evidence was as follows:—

The Earl of Rosslyn being called, deposed, that on the 25th of March, 1822, he called on Sir A. Boswell, and told him, he had come at the desire of Mr. Stuart; and that Mr. Stuart had in his possession certain papers, some of which appeared to be in Sir Alexander's hand-writing, and bore the post-mark of Mauchlin, and the counter post-mark of Glasgow. Some of them

purported to be originals of papers published in the *Glasgow Sentinel*, and one of them particularly (a song), contained allusions disrespectful to Mr. Stuart's family, and charged Mr. Stuart with cowardice. Among the papers there was a letter to the editor of the *Sentinel*, signed A. Boswell, containing some praise of the song, and other papers reflecting on Mr. Stuart, which were in the same hand-writing with the letter which bore Sir Alexander's signature. The similarity of the hand-writing and of the post-mark, furnished so strong a presumption that Sir Alexander was the author, that he thought it proper to ask Sir Alexander, if he was the author, or if he had sent them to the newspaper, stating, at the same time, that if Sir Alexander could say that he was not the author, and had not sent them to the newspaper, that would be conclusive, notwithstanding any evidence to the contrary.

Sir Alexander said, that this was a delicate affair, and he thought he ought to have a friend present. Witness said he thought it very desirable. Sir Alexander went away, and returned with Mr. Douglas, when witness repeated what he had previously said. Sir Alexander and Mr. Douglas desired to confer together. Witness went away, and when he returned, found Mr. Douglas alone. Mr. Douglas then said, that he could not advise Sir Alexander to give any answer; that Mr. Stuart was in possession of the evidence on which this application rested; but if this affair should proceed any further, there were two proposals which he had to make:— 1. That no meeting should take place within fourteen days, because Sir Alexander had some family business to dispose of. 2. That the meeting, if any, should take place on the continent. Witness had no hesitation in replying, that on these conditions he thought the terms were such as would be agreed to. He had copies of the manuscripts and papers in his hand, when he called on Sir Alexander. He had a song and a paper signed "Ignotus." He thought the song of far the greater importance, because it contained two direct imputations of cowardice. He considered Mr. Stuart's character implicated by those papers (which, being shewn to the witness, he identified in court). Mr. Douglas said he would not advise Sir Alexander to make any answer at all. Witness afterwards saw Mr. Stuart, and proceeded immediately to Mr. Douglas, and stated that witness was grieved that no alternative was left to Mr. Stuart; that Mr. Stuart agreed to both the conditions stated by Mr. Douglas, namely, the delay of fourteen days, and that the meeting should be upon the continent. It was agreed that all subsequent arrangements respecting the meeting on the continent should be settled when all the parties were in London. Witness then asked Mr. Douglas, if there was any pos-

sibility of not carrying this affair any further; that Mr. Stuart would be content to treat the song as a very bad joke on his part, provided Sir Alexander would say, that he did not intend any reflection on Mr. Stuart's courage. Mr. Douglas said he had no hopes that Sir Alexander would say any such thing. Witness left Mr. Douglas to return to Fife, in the conviction that everything was finally settled. The boat was ready, but before he embarked he was accosted by Mr. Douglas, who said Sir Alexander had taken the advice of a legal friend, and, in consequence, thought it no longer necessary to go to the continent, and that he preferred to have the meeting in Scotland. Witness objected to that; after some discussion, Mr. Douglas returned to Edinburgh, saying at parting, that at any rate, if the meeting took place in France, and Mr. Stuart fell, Sir Alexander could not be hanged for it. Mr. Brougham called on witness next morning, at about from a quarter to eight to half-past eight, and stated, that Sir Alexander had been bound over by the sheriff of Edinburgh to keep the peace, and that it had been settled that Sir Alexander and Mr. Stuart should meet at Auchtetool that morning, and requested witness to meet Mr. Stuart, which he did. He went there, and had some conversation, and fixed on a piece of ground near the road side. Mr. Stuart and Sir Alexander arrived in carriages, and got out at the place they had fixed upon, he believed at ten o'clock. The pistols were produced by Mr. Douglas and witness, Mr. Douglas sitting down, and witness standing; Mr. Douglas received from witness the measure of powder for each pistol, and the ball, and rammed them down. There were but two pistols, of which Mr. Douglas took one, and witness the other. The ground was measured, twelve very long paces. The pistols were delivered to the two parties respectively, one by Mr. Douglas, and one by witness: and it was agreed that they should fire by a word. Mr. Douglas looked upon him (witness) to give the word, which he did, and they fired. Sir Alexander fell. Mr. Stuart advanced with great anxiety towards Sir Alexander; but witness hurried Mr. Stuart away. Those who remained, together with witness, lent their assistance to convey Sir Alexander to Balmuto. Before anything took place on the ground, Mr. Stuart asked witness, if it was not fit that he should make a bow to Sir Alexander, and express his wish for a reconciliation. Witness thought it right. Mr. Stuart advanced towards Sir Alexander, apparently for that purpose; Sir Alexander's back was then turned, and he appeared to be walking away from Mr. Stuart.

Mr. Douglas, after stating the previous circumstances which had been mentioned by Lord Rosslyn, described the arrival of the parties on the

ground. Witness advised Lord Rosslyn not to pass through the village, lest he should be known. Lord Rosslyn went another road, and was first on the ground. The ground was approved of by all parties. Witness asked Lord Rosslyn, if he thought there was any chance of an amicable arrangement. Lord Rosslyn said, he feared not. Lord Rosslyn measured off the ground. Witness desired Dr. Wood not to stand so near; he replied, "he wished to be near, lest Sir Alexander might die before he could come up to his assistance." The parties having taken their positions, Lord Rosslyn proposed that witness should give the word of command; witness said, he wished Lord Rosslyn to do it, which his lordship did. On their way to the ground, Sir Alexander consulted witness as to firing in the air or not. Witness said, he (Sir Alexander) must consult his own feelings on that subject. Sir Alexander said, he had perhaps, in an unhappy moment, injured Mr. Stuart, and therefore he should fire in the air. Witness said, that was exactly his own opinion. On the field, he did not notice how Sir Alexander fired, as he felt that Mr. Stuart was in no danger, but he kept his eye on Mr. Stuart. Saw him raise his arm, which appeared firm and nervous, but he could not tell the direction exactly in which he pointed. Both fired; there was just a difference between the time of the two reports. Mr. Stuart's was rather first. Sir Alexander fell. Assistance was immediately procured for him. Mr. Stuart approached and witness advised him to flee. The only words which Sir Alexander said to witness then, were, that he regretted he had not made his fire in the air more decided than it had been. Sir Alexander's wound was not dressed on the field, but at Balmuto-house, whither he was immediately conveyed.

Mr. W. Spalding, writer, recollected in the month of March last going with Mr. Stuart to Glasgow. Mr. Henderson, writer in Hamilton, accompanied them. Witness called at Mr. Stuart's house, and there, for the first time, learned that Mr. Henderson was to accompany them. The object of their journey was to liberate Mr. Borthwick from prison. They arrived at Glasgow about eleven o'clock on that (Saturday) night. Mr. Henderson went to the gaol the same night; but Mr. Borthwick was not liberated that night. Witness was private agent to Mr. Borthwick. They had an interview with Mr. Borthwick in the gaol, on Sunday evening; and it was there agreed, that Mr. Borthwick should go and procure certain manuscripts from the Sentinel office, with a view of raising actions of relief against certain gentlemen of the county of Lanark. Mr. Stuart was present only a part of the time during this interview. Cannot tell whether he was present, when the proposal for taking the manuscripts from the Sentinel office was made. Mr. Henderson was present. The next morn-

ing Mr. Borthwick went to the office, and sent certain MSS. by a man named Robinson, to the Tontine-Inn, where they were examined by Mr. Stuart, Mr. Henderson, and himself. Mr. Borthwick did not arrive till after the MSS. were examined. Mr. Henderson knew Sir Alexander's hand-writing, and all the papers written by Sir Alexander were laid apart from the rest. The MSS. now shewn witness, were those which were selected from the others. It was witness who gave up the MSS. to Mr. Stuart.

The following witnesses were called for the defence:

Mr. Henderson, writer, in Hamilton, knew Mr. Borthwick, and knew that he had been editor of the Clydesdale Journal. Witness applied to a person to introduce him to Mr. Stuart. His object was to get Mr. Stuart to forego an action of damages which he had brought against Borthwick, and for that purpose witness described the manner in which Borthwick had been imprisoned. Mr. Stuart replied, that he could make no promises: that he was convinced Borthwick was not the author of the libels upon him; and if Borthwick would give up the authors, the action should be discontinued. Witness said, that Borthwick had often expressed his wish to be introduced to Mr. Stuart, and his readiness to give up the authors provided he were freed from the action of damages.

Borthwick, when liberated, went to the office, accompanied by witness's clerk, and one Louden Robinson (formerly a journeyman in his employ), as witnesses. Robinson shortly afterwards returned with a bundle of manuscripts of newspapers. Mr. Borthwick came some time after, and said he had been prevented from examining the papers at the office, on account of the violence of a Mr. Alexander, his co-conductor of the Sentinel newspaper. The hand-writing of Sir Alexander Boswell was not discovered until all the hand-writings had been assorted in different parcels. Borthwick said, it was the hand-writing of one Sir A. Oswald, as he called him; but he said there was a letter from the gentleman himself among the papers. This letter was found, and Mr. Stuart expressed much surprise and astonishment at the discovery: he said he never could have suspected Sir A. Boswell of attempting to injure him.

James Gibson, of Ingliston, Esq., (now Sir James Gibson Craig, Bart.) —Knows Mr. Stuart and Mr. Aiton. Has seen a great many articles in the Beacon and Sentinel, which they considered extremely offensive to Lord Archibald Hamilton, Mr. Stuart, and himself. Has often consulted Mr. Stuart on the means of detecting the author. Mr. Aiton is the agent for Lord Archibald Hamilton. Recollects the article respecting Mr. Stuart which appeared in the first number of the Sentinel: considers it a most

atrocious libel. Was informed of the whole transaction respecting Borthwick's imprisonment, and told Mr. Stuart, that he (witness) would pay the debt for which Borthwick was imprisoned, rather than be disappointed of the papers; and he was apprehensive from what he had heard of the character of Alexander, Borthwick's partner, that he would not scruple taking any measures to get possession of and destroy them. He recommended to Mr. Stuart not to lose a moment in obtaining the papers, but his only reason for recommending haste was, lest Mr. Alexander should destroy them. Mr. Stuart had never hinted a suspicion that Sir A. Boswell was the author of any of the attacks upon him, and expressed his astonishment when, on returning from Glasgow, he acquainted witness with the discovery. Witness was aware that a duel was fought between Mr. Stuart and the late Sir A. Boswell, on the 26th March last. Saw Mr. Stuart the evening before. Mr. Stuart then acquainted him that the meeting was to take place three days afterwards. Mr. Stuart then appeared perfectly calm and collected, but expressed no other motive for his conduct, than a desire to vindicate his character; he did not appear to be actuated by the least vindictiveness against Sir Alexander.

Many witnesses concurred in describing Mr. Stuart as a most humane and amiable man.

The Lord Justice Clerk charged the jury, who, without leaving the box, returned an unanimous verdict by their chancellor, Sir John Hope, Bart., finding Mr. Stuart *Not Guilty* of the charges libelled.

Subsequent to this fatal duel, Mr. Stuart went to America and published an interesting account of his travels in that country. He is now one of the government Inspectors of Factories. As already stated, Sir Alexander Boswell's second, John Douglas, Esq., of Lockerby, then a private gentleman, is now Marquis of Queensberry, to which title he succeeded, on the death of his brother, the 3rd Dec. 1837.

THE EARL OF CARDIGAN'S DUEL.

On Tuesday, February the 16th, 1841, the Earl of Cardigan was tried by his Peers at the bar of the House of Lords, for an assault with intent to murder, alleged to have been committed by him in fighting a duel with Mr. Harvey Garnett Phipps Tuckett.

James Thomas Brudenell, present and seventh Earl of Cardigan, is the representative of a very ancient and honorable English family, which was elevated to the peerage the 29th June, 1611, Thomas Brudenell being then created a baron, and in 1661, an earl. From him the present Earl is in direct descent. The facts of this duel, in which his lordship was a principal, are as follow:—

The Earl of Cardigan in the year 1840 held the rank of Lieut.-Colonel of the 11th Reg. of Hussars, of which His Royal Highness Prince Albert had recently received a commission as Colonel. It appears to have been the object of the Earl of Cardigan to advance the discipline and general conduct of his regiment to such a state as to entitle it to be more particularly esteemed in the light in which it was held,—that of a favourite regiment. The Earl had been appointed to the regiment in the year 1838, while it was serving in India, but in the spring of the ensuing year, the usual period of service abroad having expired, the 11th Hussars were ordered home, and soon after received the title of "Prince Albert's Own." While stationed at Brighton, in the course of the year 1840, some difference arose between the noble earl and the officers under his command, which, whether justly or unjustly, it is not here to determine. Complaints to the War Office were the result of these misunderstandings, and the subject became matter of discussion in the various newspapers of the day. Amongst those journals which took a prominent part in these debates was the *Morning Chronicle*, and in the columns of that paper a series of letters appeared under the signature of "An Old Soldier," which eventually proved to be the contributions of Mr. Tuckett, formerly a captain under the command of the Earl of Cardigan. Many of these letters undoubtedly contained matter highly offensive personally to the Earl of Cardigan; and the noble earl having

discovered their author, called upon him to afford him that satisfaction usually deemed to be due from one gentleman to another under circumstances of insult or any other provocation. A meeting took place at Wimbledon Common, on the 12th of September, 1840, the respective combatants being attended by seconds, the result of which was that, at the second shot, Captain Tuckett was wounded. The whole affair was witnessed by some persons resident in the neighbourhood, and the parties were all taken into custody, and eventually bound over to appear to answer any charge which might be preferred against them at the ensuing sessions at the Central Criminal Court.

A police constable was directed to institute a prosecution, and bills of indictment were laid before the grand jury against Captain Tuckett, and Captain Wainewright, his second; and also against the Earl of Cardigan, and Captain Douglas, who had attended him in the capacity of his friend In the cases of the two first-named individuals the bill was ignored, but a true bill was returned against the Earl of Cardigan and Captain Douglas.

The extent of jurisdiction of the judges at the Old Bailey prevented them from trying the Earl of Cardigan, whose alleged offence the noble earl was entitled to have inquired of by his peers, and the investigation of the case against the parties indicted was therefore postponed from session to session until the sitting of Parliament, the court declining to enter upon the case of Captain Douglas until that of the principal in the offence alleged against him had first been disposed of. Parliament assembled on the 16th of January, 1841, and then, so soon as the forms of the House of Lords would admit, the bill of indictment was removed by *certiorari*, in order to be disposed of by their lordships. The customary preliminary forms having been complied with on the day above named, namely, Tuesday, the 16th of February, the trial took place.

The public had been made acquainted with the fact that the trial would not take place in the Westminster-hall, and that the Painted Chamber, in which the peers had met for parliamentary business since the destruction of the old house by fire, was under preparation for the solemn and imposing scene. The smallness of the apartment, and the general desire amongst the peeresses and the various members of the nobility and rank of the land to be present upon so important and interesting an occasion, rendered it necessary that very extensive alterations should be made to secure sufficient accommodation, and considerable ingenuity had been exercised in order to accomplish that object, every corner and nook from which a glimpse of the court could be snatched being provided with sittings. But

the capacity of the building prevented the architect, with all his skill, from making the supply equal to the demand. The benches, galleries, and floor, were covered with crimson cloth, and the walls themselves with paper, in which that colour was predominant, and the effect was to make the gorgeous robes of the peers and the splendid dresses of the peeresses stand out in dazzling relief. When the court had opened, and the chamber was filled, the *tout ensemble* was magnificent.

At a quarter before eleven o'clock the lords' speaker (Lord Denman), having robed in his private room, entered the house. A procession was formed in the usual manner, his lordship being preceded by the purse-bearer with the purse, the sergeant with the mace, the black rod carrying the lord high steward's staff, and garter carrying his sceptre.

Garter and black rod having taken their places at the bar, the lord speaker proceeded to the woolsack, where, being seated, prayers were read by the Bishop of Lichfield.

The clerk-assistant of Parliament then proceeded to call over the peers, beginning with the junior baron.

This necessary ceremony being completed, the clerks of the crown in Chancery and in the Queen's Bench jointly made three reverences, and the clerk of the crown in Chancery, on his knee, delivered the commission to the lord speaker, who gave it to the clerk of the crown in the Queen's Bench to read; and both clerks retired with like reverences to the table.

The sergeant-at-arms then made proclamation, and the lord speaker informed the peers that her Majesty's commission was about to be read, and directed that all persons should rise and be uncovered while the commission was reading.

The commission appointing Lord Denman as lord high steward was then read, and garter and black rod having made their reverences, proceeded to the woolsack and took their places on the right of the lord high steward, and both holding the staff, presented it on their knees to his grace.

His grace rose, and having made reverence to the throne, took his seat in the chair of state provided for him on the uppermost step but one of the throne. Proclamation was then made for silence; when the Queen's writ of *certiorari* to remove the indictment, with the return thereof, and the record of the indictment, were read by the clerk of the crown in the Queen's Bench. The lord high steward then directed the sergeant-at-arms to make proclamation for the yeoman usher to bring the prisoner to the bar.

The Earl of Cardigan immediately entered the house, and advanced to the bar, accompanied by the yeoman usher. He made three reverences, one to his grace the lord high steward, and one to the peers on either side, who returned the salute. The ceremony of kneeling was dispensed with. The noble earl, who was dressed in plain clothes, was then conducted within the bar, where he remained standing, while the lord high steward acquainted him with the nature of the charge against him.

The prisoner was arraigned in the usual form, for firing at Harvey Garnet Phipps Tuckett, on the 12th of September, with intent to kill and murder him. The second count charged him with firing at the said Harvey Garnet Phipps Tuckett with intent to maim and disable him; and the third count varied the charge—with intent to do him some grievous bodily harm.

The clerk then asked, "How say you, James Thomas Earl of Cardigan, are you guilty or not?"

The Earl of Cardigan, in a firm voice, replied, "Not guilty, my lords."

The Clerk—"How will you be tried, my lord?"

The Earl of Cardigan—"By my peers."

The noble prisoner then took his seat on a stool within the bar, and his grace the lord high steward removed to the table, preceded by garter, black rod, and the purse-bearer, as before, and his grace being seated, black rod took his seat on a stool at the corner of the table, on his grace's right hand, holding the staff, garter on a stool on black rod's right, and the sergeant at the lower end of the table on the same side.

Mr. Waddington opened the pleadings, stating the nature of the offence as set out in the indictment, and added that the noble prisoner had, for his trial, put himself upon their lordships, his peers.

The Attorney-general, Sir John, now Lord Campbell, addressed their lordships as follows:—"I have the honour to attend your lordships on this occasion as Attorney-general for her Majesty, to lay before you the circumstances of the case upon which you will be called to pronounce judgment, without any object or wish on my part, except that I may humbly assist your lordships in coming to a right conclusion upon it, according to its merits. An indictment has been found against a peer of the realm by a grand jury of his country, charging him with a felony, the punishment of which is transportation or imprisonment. That indictment has been removed before your lordships at the request of the noble prisoner, and, I must say, most properly removed, for an inferior court had no jurisdiction to try him. The charge

is, upon the face of it, of a most serious character, and it would not have been satisfactory if it had gone off without any inquiry. The policeman, however, who was bound over to prosecute, fulfilled his recognizances by appearing at the Central Criminal Court, and preferring the indictment. It is possible that in the course of this trial, questions of great magnitude on the construction of acts of Parliament, or respecting the privileges of the peerage may arise, which it is of great importance to this house, to the crown, and to the community, should be deliberately discussed. According to all the precedents that can be found, whenever a peer has been tried in Parliament, the prosecution has been conducted by the law-officers of the crown. Fortunately, we have no living memory on this subject. It is now sixty-four years since any proceeding of this sort has taken place, and I am rejoiced to think that on the present occasion the charge against the noble prisoner at the bar does not imply any degree of moral turpitude, and that, if he should be found guilty, his conviction will reflect no discredit on the illustrious order to which he belongs. At the same time, it clearly appears to me that the noble lord at the bar has been guilty of infringing the statute law of the realm, which this and all other courts of justice are bound to respect and enforce. Your lordships are not sitting as a court of honour, or as a branch of the legislature; your lordships are sitting here as a court bound by the rules of law, and under a sanction as sacred as that of an oath. The indictment against the Earl of Cardigan is framed upon an act of Parliament which passed in the first year of the reign of her present Majesty. It charges the noble defendant with having shot at Captain Harvey Tuckett, with the several intents set forth in the indictment. I think I shall best discharge my duty to your lordships by presenting to you a brief history of the law on this subject. By the common law of England, personal violence, when death did not ensue from it, amounted to a mere misdemeanour, and if the wounded party did not die within a year and a day, no felony was committed. The first act which created a felony where death did not ensue was the 5th of Henry IV. By that act certain personal injuries, without death, were made felonies without benefit of clergy. Then came the Coventry Act, the 22nd and 23rd of Charles II., whereby any person lying in wait for and wounding another, with intent to maim or disfigure, was guilty of felony, without benefit of clergy. Under both these acts no offence was committed unless a wound was inflicted, and it was not until the 9th George I., commonly called the Black Act, that an attempt, where no wound was given, was made a felony. By that act it was enacted, that if any person should wilfully and maliciously shoot at any person in any dwelling-house or other place,

he should be guilty of felony without benefit of clergy, although no wound were inflicted: but it was determined upon that statute—and, in fairness to the noble prisoner, it is my duty to remind your lordships of it—that unless the case was one in which, if death had ensued, it would have amounted to murder, no offence was committed under the statute. That was determined in the case of the King and Castineaux, which is reported in the first volume of Leach's 'Crown Cases,' page 417. In that case the law was thus laid down:—'The offence charged in this indictment is described by the statute, in which it is framed, in very few and very clear words, which are—'That if any person or persons shall wilfully and maliciously shoot at any person in any dwelling-house or other place, he shall be adjudged guilty of felony, without benefit of clergy.' The word maliciously is made to constitute the very essence of this crime; no act of shooting, therefore, will amount, under this statute, to a capital offence, unless it be accompanied with such circumstances as, in construction of law, would have amounted to the crime of murder if death had ensued from such act. This proposition most clearly and unavoidably results from the legal interpretation of the word maliciously, as applied to this subject; for there is no species of homicide in which malice forms any ingredient but that of murder; and it follows, that neither an accidental shooting, nor a shooting in the transport of passion, excited by such a degree of provocation as will reduce homicide to the offence of manslaughter, is within the meaning of the statute; for from both of these cases the law excludes every idea of malice.' The law continued on this footing until an act was passed in the 43rd of George III., which is commonly called Lord Ellenborough's Act. This act did not repeal the Black Act, but greatly extended its operation, and, among other enactments, contains this:—'That if any person or persons shall wilfully, maliciously, and unlawfully shoot at any of his Majesty's subjects, or shall wilfully, maliciously, and unlawfully present, point, or level any kind of loaded fire-arms at any of his Majesty's subjects, and attempt, by drawing a trigger, or in any other manner, to discharge the same at or against his or their person or persons, or shall wilfully, maliciously, or unlawfully stab or cut any of his Majesty's subjects, with intent in so doing, or by means thereof, to murder, or rob, or to maim, disfigure, or disable such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such his Majesty's subject or subjects, he shall be guilty of felony, without benefit of clergy.' This act, however, has the following express proviso:—'Provided always, that in case it shall appear on the trial of any person or persons indicted for the wilfully, maliciously, and unlawfully shooting at

any of his Majesty's subjects, or for wilfully, maliciously, and unlawfully presenting, pointing, or levelling any kind of loaded fire-arms at any of his Majesty's subjects, and attempting, by drawing a trigger, or in any other manner, to discharge the same at or against his or their person or persons, or for the wilfully, maliciously, and unlawfully stabbing or cutting any of his Majesty's subjects, with such intent as aforesaid, that such acts of stabbing or cutting were committed under such circumstances as that if death had ensued therefrom the same would not in law have amounted to the crime of murder; then and in every such case the person or persons so indicted shall be deemed and taken to be not guilty of the felonies whereof they shall be so indicted, but be thereof acquitted.' Your lordships will observe that, by this act, it is made a capital offence to shoot at with intent to murder, or maim, or disfigure, or to do grievous bodily harm, but the offence came within the statute only when, if death would have ensued, it would, under these circumstances, have amounted to the crime of murder. Next came the statute of the 9th of George IV., cap. 31, which, I believe, is generally called Lord Lansdowne's Act, that noble lord having introduced it into Parliament when he was Secretary for the Home Department. This is an act for consolidating and amending the statutes relating to offences against the person. It repeals the Black Act, and Lord Ellenborough's Act; but it contains provisions similar to those of the latter. The 11th section enacts:—'That if any person unlawfully and maliciously should administer or attempt to administer to any person, or should cause to be taken by any person, any poison or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate, or strangle any person, or shall unlawfully and maliciously shoot at any person, or shall, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms, at any person, or shall unlawfully and maliciously stab, cut, or wound any person, with intent, in any of the cases aforesaid, to murder such person, every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon.' By the 12th section it is enacted:—'That if any person unlawfully and maliciously shall shoot at any person, or shall by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut, or wound any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable such person, or do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices, for any

offence for which he or they may respectively be liable by law to be apprehended or detained, every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.' This act contains the same proviso as was inserted in Lord Ellenborough's; but still it remained a capital offence to shoot at, with intent to murder, or maim, or disfigure, or do bodily harm, although no wound was inflicted. Things remained on this footing till the act was passed on which the present indictment is framed. That act, which received the royal assent on the 17th July, 1837, is the 1st of Victoria, cap. 85, and is entitled 'An Act to amend the laws relating to offences against the Person.' The preamble recites that it is expedient to repeal so much of the act of the 9th George IV., and of the 10th of the same reign, as relates to any person who shall unlawfully and maliciously shoot at any person, or who shall, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, or who shall unlawfully and maliciously stab, cut, or wound any person, &c. And by the second and third sections it is enacted:—'That whosoever shall administer to or cause to be taken by any person any poison or other destructive thing, or shall stab, cut, or wound any person, or shall by any means whatsoever cause to any person any bodily injury, dangerous to life, with intent in any of the cases aforesaid, to commit murder, shall be guilty of felony, and being convicted thereof, shall suffer death. And be it enacted, that whosoever shall attempt to administer to any person any poison or other destructive thing, or shall shoot at any person, or shall, by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid, to commit the crime of murder, shall, although no bodily injury shall be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his or her natural life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years.' Therefore, to shoot at a person and inflict a wound dangerous to life, remains by this act a capital offence; but the act of shooting, when no wound is inflicted, is no longer a capital offence, and remains a felony punishable only with transportation or imprisonment. The fourth section enacts:—'That whosoever unlawfully and maliciously shall shoot at any person, or shall, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, or shall stab, cut, or wound any person, with intent in any of the cases aforesaid to maim, disfigure, or disable such person, or to do some other grievous bodily harm

to such person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his or her natural life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years.' This act contains no such proviso as is found in Lord Ellenborough's Act, and that of the 9th of George IV., a circumstance which it is material your lordships should bear in mind, when you come to deliberate on your judgment with respect to the second and third counts of the indictment. I am happy to say that the indictment contains no count on the capital charge. A wound was inflicted; but the prosecutor has very properly restricted the charge to firing at with intent, without alleging that any wound dangerous to life was inflicted. The first count charges, that the Earl of Cardigan shot at Captain Tuckett with intent, in the language of the law, to commit the crime of murder. The second count charges his lordship with the same act with intent to maim, disfigure, or disable Captain Tuckett, and the third count charges him with the same act with intent to do Captain Tuckett some grievous bodily harm. It will be for your lordships to say whether, upon the facts which I shall lay before you, and which I am instructed to say can be clearly made out in evidence, each and every one of the counts must not be considered as fully established. The substance of the evidence in this case is, that on the 12th of September last, the Earl of Cardigan fought a duel with pistols on Wimbledon Common, with Captain Tuckett, and wounded him at the second exchange of shots. It will appear that about five o'clock on the afternoon of that day, two carriages, coming in opposite directions, were seen to arrive on Wimbledon Common, and a party of gentlemen alighted from each. It was evident to those who observed what was going on, that a duel was in contemplation. The parties went to a part of Wimbledon Common, between the road that leads to Lord Spencer's park and a windmill. The seconds made the usual preparations; the principals, the Earl of Cardigan and Captain Tuckett, were placed at a distance of about twelve yards; they exchanged shots without effect; they received from their seconds each another pistol; they again fired, and Captain Tuckett was wounded by the Earl of Cardigan. Mr. Dann, who occupied the mill, and his son, and Sir James Anderson, a surgeon, who was standing close by, went up immediately. The wound was examined: it bled freely but most fortunately—and I am sure that no one rejoices at the circumstance more than the noble prisoner at the bar—it proved to be not of a dangerous nature. Mr. Dann, the miller, who was a constable, took the whole party

into custody. The wound was again formally examined, and Sir J. Anderson pressed that he might be set at liberty and allowed to take Captain Tuckett to his house in London, which was immediately acceded to, upon Captain Tuckett promising to appear before the magistrates when he recovered. The miller retained the Earl of Cardigan, and his second, Captain Douglas, as well as Captain Wainwright, the second of Captain Tuckett. The Earl of Cardigan had still a pistol in his hand when the miller approached him; and two cases of pistols were still on the ground, one of which bore the crest of the noble earl, and was claimed by him as his property. The parties in custody were conducted before the magistrates at Wandsworth, when the Earl of Cardigan made use of these words:—'I have fought a duel; I have hit my man, I believe, but not seriously.' Then pointing to Captain Douglas, he said, 'This gentleman is also a prisoner and my second.' He was asked whether the person he had hit was Captain Reynolds, upon which he replied, 'Do you think I would condescend to fight with one of my own officers?' His lordship was compelled by the magistrates to enter into recognizances to appear when called upon, which he did from time to time, till at last the matter was carried to the Central Criminal Court. The witnesses I shall call before your lordships are, the miller, his wife, and son, and the policeman named Busaine, who was at the station-house, and will speak to the declarations made by the Earl of Cardigan. I can offer no evidence respecting the origin of the quarrel. Captain Douglas is to take his trial for his share in the transaction; he, as your lordships will observe, is jointly indicted with the Earl of Cardigan. A bill was also preferred against Captains Tuckett and Wainwright, but the grand jury has thrown it out. Those gentlemen, however, are still liable to be tried, and it would not be decorous to summon them before your lordships to give evidence, which might afterwards be turned against themselves, probably when they would be on trial for their lives. I shall call Sir J. Anderson, who has hitherto spoken fairly on the subject, and, I suppose, will now make no objection to state all that fell within his observation. Upon these facts it will be for your lordships to say whether all the counts of the indictment are not fully proved and supported. With respect to the first count, it is painful to use the language which it necessarily recites; but it will be for your lordships to say whether, in point of law, the noble prisoner at the bar did not shoot at Captain Tuckett with intent to commit the crime therein mentioned. I at once acquit the Earl of Cardigan of anything unfair in the conduct of this duel. Something has been said respecting the noble earl's pistols having rifle barrels, whilst those of Captain Tuckett had not such barrels. However that may have been,

I have the most perfect conviction that nothing but what was fair and honourable was intended, and that the Earl of Cardigan, most probably imagined, when he carried his pistols to the field with him, that one of them would be directed against his own person. Nor do I suppose that there was any grudge—any personal animosity—any rancour or malignity on the part of the noble earl towards his antagonist. Whether the noble earl gave or received the invitation to go out, I believe his only object was to preserve his reputation, and maintain his station in society as an officer and a gentleman. His lordship is in the army—he is Lieutenant-Colonel of the 11th Hussars, and no doubt he, on this occasion, only complied with what he considered to be necessary to be done according to the usages of society. But if death had ensued under these circumstances it would have been a great calamity; and although moralists of high name have excused and even defended the practice of duelling, your lordships must consider what, in this respect, is the law of England. There can be no doubt that by the law of England parties who go out deliberately to fight a duel, if death ensue, are guilty of murder. It will be my duty to state to your lordships a few of the leading authorities on this point. I will mention the highest authorities known to the law of England—Hale, Hawkins, Foster, and Blackstone. Hale, in his 'Pleas of the Crown,' says, 'If A and B suddenly fall out, and they presently agree to fight in a field, and run and fetch their weapons and go to the field and fight, and A kills B, this is not murder, but homicide, for it is but a continuance of the sudden falling out, and the blood was never cooled; but if there were deliberation, as that they went on the next day—nay, though it was the same day, if there was such a competent distance of time that in common presumption they had time of deliberation—then it is murder.' In the 1st vol. of 'Hawkins' Pleas of the Crown,' cap. 13, sec. 21, p. 96, the law on this subject is thus laid down:—'It seems agreed, that whenever two persons in cold blood meet and fight on a precedent quarrel, and one of them is killed, the other is guilty of murder, and cannot help himself by alleging that he was struck first by the deceased, or that he had often declined to meet him, and was prevailed upon to do it by his importunity, or that it was his intent only to vindicate his reputation—or that he meant not to kill, but to disarm his adversary—for since he deliberately engaged in an act highly unlawful, in defiance of the laws, he must at his peril abide the consequence thereof.' 'And from hence it follows, that if two persons quarrel over night, and appoint to fight next day—or quarrel in the morning, and agree to fight in the afternoon, or such a considerable time after by which in common intendment it must be presumed that the blood was

cooled, and then they meet and fight, and one kills the other, he is guilty of murder.' . . . 'And whenever it appears from the whole circumstances, that he who kills another on a sudden quarrel, was master of his temper at the time, he is guilty of murder, as if after the quarrel he falls into a discourse, and talks calmly thereon, or perhaps if he have so much consideration as to say that the place wherein the quarrel happens is not convenient for fighting, or that if he should fight at present he should have the disadvantage by reason of the height of his shoes.' The last observation refers to Lord Morley's case, where, though a case of manslaughter, it was a circumstance strongly pressed to shew that the offence was one of deeper dye. Sir M. Foster, in his discourse on homicide, says:—'Upon this principle deliberate duelling, if death ensue, is, in the eye of the law, murder, because it is generally founded on a feeling of revenge. And if a person be drawn into a duel, not from motives so criminal, but merely for the protection of what he calls his honour, that is no excuse for those who, in seeking to destroy another, act in defiance of all laws human and divine. But if, on a sudden quarrel, parties presently fetch their weapons, and go into a field and fight, and one of them is killed, that is manslaughter, because it is presumed that their blood never cooled. Otherwise, if the parties appoint the next day to meet, or even the same day, at such an interval as that their passion may have subsided, or if, from circumstances in the case, it may be reasonably presumed that their judgment had controlled the first transports, if death then ensue, it is murder. The same rule will hold if, after a quarrel, the parties fall into other conversation or discussion, and remain so engaged, so as to afford reasonable time for cooling.' Blackstone, in his fourth volume, p. 199, thus writes, when describing and defining the crime of murder:—'This takes place in the case of deliberate duelling, where both parties meet avowedly with an intent to murder: thinking it their duty, as gentlemen, and claiming it as their right, to wanton with their own lives and those of their fellow-creatures; without any warrant or authority from any power, either divine or human, but in direct contradiction to the laws both of God and man; and, therefore, the law has justly fixed the crime and punishment of murder on them, and on their seconds also.' Those are the highest authorities known to the law of England, and they are uniformly followed by the English judges. Such being the definition of murder constantly given from the bench on trials for life and death, ought not your lordships to suppose that the legislature has made use of the word 'murder' in the same sense, and that when we find in Lord Ellenborough's Act, in that of the 9th of George IV., and in that of the 1st of Victoria, the expression 'with intent to commit

murder,' it means with intent to do that which, if accomplished, would amount in law to the crime of murder. The legislature, and your lordships as part of it, must be taken to have well known what was the legal definition of murder, and to have used the expression, in a judicial act, in its legal sense. However painful the consideration may be, does it not necessarily follow that the first count of the indictment is completely proved? The circumstances clearly shew that the Earl of Cardigan and Captain Tuckett met by appointment. The arrangement being completed, they fired twice; the Earl of Cardigan took deliberate aim, fired, and wounded his antagonist. He must be supposed to have intended that which he did. If, unfortunately, death had ensued, would not this have been a case of murder? The only supposition by which the case could be reduced to one of manslaughter would be, that the Earl of Cardigan and Captain Tuckett met casually on Wimbledon Common—that they suddenly quarrelled, and, whilst their blood was hot, fought; but your lordships will hardly strain the facts so far as to say this was a casual meeting, when you see that each party was accompanied by a second, and supplied with a brace of pistols, and that the whole affair was conducted according to the forms and solemnities observed when a deliberate duel is fought. With respect to the second count I know not what defence can possibly be suggested, because even had it been a casual meeting, and if death had ensued under circumstances which would have amounted only to manslaughter, that would be no defence to the second and third counts. I presume to assert that on the authority of a case which came before the fifteen judges of England, and which was decided, two most learned judges doubting on the occasion, but not dissenting from the decision. The two judges who doubted were his grace the high steward, who presides over your lordships' proceedings on this occasion, and Mr. Justice Littledale. It would not become me to say anything of the learning and ability of the noble high steward in his presence, but with respect to Mr. Justice Littledale, I will say that there never was a more learned or acute judge than he was, whose retirement from the bench the bar has lately witnessed with reluctance and regret. I therefore attach the greatest weight even to doubts proceeding from such a quarter; but the thirteen other judges entertained no doubt upon that occasion, and came to the conclusion that, upon the 4th section of the act upon which the present indictment was framed, it is not necessary for a conviction that if death ensued the offence should amount to murder. The case to which I refer is to be found in the second volume of Moody's 'Crown Cases,' page 40. It was a case tried before Mr. Baron Parke, on the Norfolk spring circuit, 1838; and I will read what is material to

your lordships: The case first recites the 9th of George IV., sec. 11 and 12, and the preamble, and enacting part of the 1st of Victoria, point out the circumstance that the latter act does not contain the same proviso as is found in those of Lords Ellenborough and Lansdowne, and then submits this question for the opinion of the judges: 'Is it now a defence to an indictment for wounding with intent to maim, &c., that, if death had ensued, the offence would not have been murder but manslaughter?' Your lordships will observe that shooting at with intent to maim or disable, and stabbing with the same intent, are in the same category of subjects, and must be attended with all the same rules and incidents. This opinion will therefore have the same authority as if the question submitted by Barons Parke and Bolland had been whether, on an indictment for shooting at with intent to disable, it would be a defence that if death had ensued the offence would not have amounted to murder. The opinion of the judges was as follows:—'At a meeting of the judges in Easter term 1838, they all thought it to be no defence to such an indictment, that if death had ensued, the offence would not have been murder, but manslaughter, except the Lord Chief Justice Lord Denman, and Mr. Justice Littledale.' The Lord Chief Justice and Mr. Justice Littledale, it will be observed, did not dissent, they only doubted; but the other thirteen judges seem clearly to hold that the plea set forth does not now amount to any defence; and I apprehend that the judges probably reasoned in this manner —the intention of parliament being to make offences, before capital, punishable only by transportation, the quality of the offence is not precisely the same as before, and that if a person maims another, or disables him, or does him some grievous bodily harm, even though it were an unpremeditated act, arising out of a sudden scuffle, it should nevertheless be an offence under this act, which gives a discretionary power to the court before whom the offence is tried, either to transport for fifteen years, or to imprison for a single hour. The judges, doubtless, considering this discretionary power, and the omission of the proviso which was in the preceding acts—seeing that the capital punishment was abolished, came to the conclusion that the offence was committed, even though if death had ensued, it would not, under the circumstances, have amounted to the crime of murder. Looking at the authority of this case, I know not what defence can possibly be urged with respect to the second and third counts. I rejoice, my lords, to think that the noble prisoner will have an advantage upon this occasion which has never before been enjoyed by any peer who has been tried at your lordships' bar—an advantage which neither Lord Lovat, Lord Ferrers, nor the Duchess of Kingston, could claim. He will

have the advantage of the assistance of my most able, ingenious, zealous, and learned friend, Sir William Follett, who will address your lordships in his behalf on the facts and merits of the case. This privilege is secured to the noble prisoner under the admirable law your lordships passed a few years ago, by which, in all cases, the party has the advantage of addressing, through his counsel, the tribunal which is to determine on his guilt or innocence. Notwithstanding, however, all the learning, ability, and zeal of my honourable and learned friend, I know not how he will be able to persuade your lordships to acquit his noble client on any one count of this indictment. My learned friend will not ask your lordships—and if he did, it would be in vain—to forget the law by which you are bound. Captain Douglas stands on his trial before another tribunal, and his trial has been postponed by the judges on the express ground that the same case is first to be tried by the highest criminal court known in the empire. Your lordships are to lay down the law by which all inferior courts are to be bound. I beg leave, on this subject, to read the words made use of at this bar by one of my most distinguished predecessors, who afterwards for many years presided with great dignity on the woolsack—I mean Lord Thurlow. When Lord Thurlow was Attorney-general, in addressing this house in the case of the Duchess of Kingston, he made use of this language:—'I desire to press this upon your lordships as an universal maxim; no more dangerous idea can creep into the mind of a judge than the imagination that he is wiser than the law. I confine this to no judge, whatever may be his denomination, but extend it to all. And speaking at the bar of an English court of justice, I make sure of your lordships' approbation when I comprise even your lordships sitting in Westminster Hall. It is a grievous example to other judges. If your lordships assume this, sitting in judgment, why not the King's Bench? why not commissioners of oyer and terminer? if they do so, why not the quarter sessions? Ingenious men may strain the law very far, but to pervert it was to new-model it—the genius of our constitution says, judges have no such authority, nor shall presume to exercise it.' I conclude, my lords, with the respectful expression of my conviction, that your lordships' judgment in this case, whatever it may be, will be according to truth and the justice of the case, and that you will preserve the high reputation in the exercise of judicial functions which has so long been enjoyed by your lordships and your ancestors."

The evidence of the various persons who had witnessed the transaction of the duel, and which supported the statement made by the learned Attorney-general, was then produced; but, at the close of the case, it was

objected by Sir William Follett, on behalf of the Earl of Cardigan, that there was no evidence to shew that the person against whom the shot was discharged was Mr. Harvey Garnett Phipps Tuckett. The card of "Mr. Harvey Tuckett" had been put in; but this might be quite another person from the individual pointed to by the indictment.

The Attorney-general was heard on the other side; but, after a short deliberation, the lord high steward announced that the evidence which fixed the identity of the individual was insufficient; and the peers thereupon declared the noble defendant "Not guilty."

At the Central Criminal Court, on Wednesday the 3rd of March, 1841, Captain Douglas was put upon his trial, before Mr. Justice Williams, upon the indictment which had been found against him; but the jury, in the absence of positive evidence to identify Mr. Tuckett, came to the same conclusion as that which had been arrived at by the House of Peers; and a verdict of acquittal was returned.

THE MURDER OF LORD WILLIAM RUSSELL.

For a considerable number of years scarcely any circumstance occurred in the metropolis which created a greater degree of consternation and interest than the tragical event here recorded. At an early hour on the morning of Wednesday the 6th of May, 1840, Lord William Russell, an aged and esteemed member of the illustrious house of Bedford, was discovered to have been barbarously murdered in his bed, at his house No. 14, Norfolk-street, Park-lane. The noble deceased was the posthumous child of Francis, Marquis of Tavistock, eldest son of the fourth Duke of Bedford, by Lady Elizabeth Keppel, daughter of the second Earl of Albermarle. He was the third and youngest brother of the two late Dukes of Bedford, and uncle of the existing Duke, who was the seventh of the family who succeeded to the title. He was uncle also to Lord John Russell, who at the time of this melancholy catastrophe held the office of Secretary of State for Colonial Affairs. By his marriage with Lady Charlotte Villiers, eldest daughter of the fourth Earl of Jersey, Lord William Russell had seven children, several of whom were still alive and married into other noble families; but at the time of his death he was a widower, his wife having died in the year 1806. His lordship having been born in August, 1767, was consequently in the seventy-third year of his age.

Allied as the noble lord was to so many of the families of the nobility, the horrible event of his murder created an extraordinary degree of alarm; and inquiries the most eager and the most scrutinising were immediately set on foot, with a view to the discovery of the person by whose hand the dreadful deed had been committed. The result of the preliminary investigations which took place, tended to fix strong suspicion upon the valet of the unfortunate nobleman, François Benjamin Courvoisier, which, however, was so little supported by positive evidence, as to leave his guilt a matter of the greatest doubt; and it was not until the second day of his trial for the murder, that circumstances were discovered, which

in a manner, that appeared to denote the presence of the hand of the Almighty, secured his conviction.

The first discovery of the murder, as already stated, took place upon the morning of the 6th of May, 1840; but, in order to render what then happened more intelligible, it is better to first describe the family of his lordship, and the proceedings of the day preceding this outrage. Lord William Russell resided, attended only by his servants, at the house in Norfolk-street, Park-lane. At the age at which he had arrived, it is not to be supposed that he was unaffected by indisposition or weakness; but although he suffered slightly from deafness and bodily infirmity, his health was sufficiently good to enable him to enjoy life with comparative comfort. His family consisted of two female servants; a housemaid, Sarah Mancer, and a cook, Mary Hannell, beside his valet, Courvoisier, and a coachman and groom, all of whom lived in the house, with the exception of the two latter individuals. The house was small, and consisted of only two rooms on a floor. On the basement story were the kitchen, and the usual offices, and a room used by Courvoisier as a pantry. On the ground floor were two parlours, used as dining-rooms; on the first floor were the drawing-room and library; on the second floor were the bed-room and dressing-room of his lordship; and in the story above were the sleeping apartments of the servants. His lordship was a member of Brookes's Club, in St. James's-street, and usually spent a considerable portion of the day there; but he generally dined at home, and then having passed several hours in reading, commonly retired to rest at about twelve o'clock. The valet had been in his lordship's service during a period of five weeks only; and in the course of that time had been heard by his fellow servants to express himself in terms of dislike to his master, whom he described as testy and dissatisfied, and to declare that if he only had his money, he should soon return to Switzerland, of which country he was a native. Upon the 5th of May, his lordship rose at nine o'clock, and breakfasted at the usual hour; and at about noon he went out, proposing to go to Brookes's, in accordance with his usual habit. Before he quitted the house, however, he called his valet, and gave him several messages to deliver, amongst which was one to the coachman, to prepare his carriage and to be in readiness to take him home from his club at five o'clock. Upon Courvoisier going into the kitchen after this, he declared his fears that he should forget some of his errands; and in recounting them, he omitted that to the coachman. At half-past five his lordship returned home to dinner, in a cab, and shewed some dissatisfaction at the neglect of his servant; but it does not appear that he exhibited any such anger as could well excite a feeling

hatred or ill will. Dinner was served at about seven o'clock; tea and coffee were subsequently handed to his lordship, and at about nine o'clock he retired to his library. At this time, the three house servants only were at home. Some other persons had called in the course of the day, but they had all left; and Courvoisier, Sarah Mancer, and Mary Hannell, only were in the house. Hannell had been out, but upon her return Courvoisier admitted her, and it was observed that he locked and chained the street door after her entrance. Supper was, at about ten o'clock, prepared in the kitchen, and some beer was fetched by Courvoisier; but he quitted the house, and returned by way of the area, and the gate and kitchen door were fastened by Hannell upon his re-admission. The means of access to the house, from the street, therefore, were closed, and the only entrance from the back, on the basement story, was through the pantry.

At about half-past ten, the women-servants went to bed, leaving Courvoisier to attend upon his master, and it was not until half-past twelve o'clock that his lordship rang his bell for him to assist him in retiring to his apartment. It was the custom of his lordship to have his bed warmed, and it was the duty of the valet to perform this duty for him, and then to return the warming-pan to the kitchen. The bed appears to have been warmed as usual on this occasion; but as the subsequent events of this dreadful night remained in mystery until after the discovery of the murder and the conviction of its perpetrator, it will be better to abstain from describing them at present, in order that they may be laid before the reader in the words which Courvoisier himself employed in recounting them.

On the following morning, at about half-past six o'clock, Sarah Mancer, the housemaid, rose from her bed, and, having dressed herself, quitted her bed-room. As she passed the door of the prisoner's room she knocked, in order to wake him, and then proceeded down stairs. The first circumstance which she remarked was, that the warming-pan had been left at her master's bed-room door, as if indicating that the valet had gone to rest immediately after having attended upon his master, without subsequently going below; but, upon her proceeding to the lower floors of the house, she found everything in such a state of confusion, as to excite a suspicion in her mind that thieves had entered the house with a view to the commission of a robbery. She hurried through the drawing-room, the parlour, and the passage on the ground-floor, and there she found the furniture strewed about, the drawers and boxes open, a bundle lying on the ground, as if ready packed up to be carried off, while the street-door had been unfastened, and was only upon the latch. A momentary examination

of these matters was sufficient to excite alarm in her mind, and, hurrying up-stairs again, she repaired to the cook to inform her of what she had seen, by whose directions she at once proceeded to the apartment of the valet. Ten minutes had scarcely elapsed since she had before knocked at his door, and half-an-hour was ordinarily occupied by him in dressing, but to her surprise, she now found him dressed and ready to descend. Hastily informing him of what she had witnessed below, he accompanied her down stairs; and, upon his seeing the state in which the lower part of the house appeared to be, he exclaimed, "Oh, God! somebody has robbed us." Mancer now suggested the propriety of their ascertaining whether anything had occurred to his lordship, and they went together to his bedroom.

Immediately upon their entrance, Courvoisier proceeded to the window to open the shutters, but Mancer, going to the bed-side, saw the pillow saturated with blood, and his lordship lying in bed, quite dead, with his throat frightfully cut. His face was covered with a towel or napkin, but upon this being removed, his countenance was found to be perfectly placid, while the position of the body, undisturbed, and as if in a state of repose, betokened the suddenness with which the death-stroke had been inflicted. The woman suddenly screamed and ran out of the room, and, rushing from the house, she obtained the aid of some neighbours and of the police, by whom a surgeon was called in. Upon the entrance of these persons, Courvoisier, whose conduct throughout the whole transaction was of the most singular description, was found dreadfully agitated, leaning on the bed where the body of his master lay; and although questions were asked him, he made no answer, and took no part in the proceedings which succeeded. The death of the deceased nobleman was too evidently the result of violence from another hand to render a suggestion of suicide possible. One gash only had been given, which extended to the very back of the neck, and nearly severed the head from the body; and the absence of any instrument by which such an act could have been committed, at once negatived any supposition of that description.

In a few minutes Courvoisier appeared to recover from the agitation by which he had been affected, and at his suggestion an intimation of the dreadful occurrence was conveyed to the son of the deceased nobleman, who resided in Belgrave-square. Upon Courvoisier going down stairs, he immediately took Sarah Mancer into his pantry, and pointing to some marks of violence which were perceptible upon the door, which was open, remarked, "It was here they entered."

The police now took possession of the house, and the mysterious nature

of the transaction fully warranted them in the first step which they adopted —the detention of the three servants. A minute examination of the premises took place, the result of which was, a firm conviction on their minds that the murder had been perpetrated by an inmate of the house, and that a simulated robbery had been got up, for the purpose of raising a belief that the diabolical crime which had been committed was the act of a nocturnal plunderer and assassin. Upon the street door there were no marks of violence perceptible, while the indentions which were observable upon the door of the pantry had been so clearly produced from within, instead of from without, as to leave no doubt of the truth of their supposition. Their belief was further supported by the position of the back part of the house and the contiguous dwellings. It was so surrounded by buildings and high walls, as to render approach from that quarter next to impossible; and a minute examination of the neighbouring roofs of houses, &c., clearly negatived the suggestion that any person had obtained access to the house of Lord William Russell by clambering over any of them. In the house, the appearances were such as to indicate that the work had not been done by any practised housebreaker or marauder; and, furthermore, instruments were discovered, in the pantry, a poker, and a chisel which was found in the drawing-room, which had been known to be in the kitchen for some weeks before, exactly corresponding with the marks in the pantry door, and which, as they could not have come into the possession of any stranger, must have been employed by some person having access to, and being well acquainted with, the premises.

The parcel which had been observed by the woman Mancer was examined, and was found to contain many articles of his lordship's property. A cloth cloak, which had been hanging up in the hall, was found rolled up, and within it were his lordship's gold opera-glass, his gold toothpick, a silver sugar-dredger, a pair of spectacles, a caddy spoon, and a thimble belonging to the cook; but it was remarked, that the latter articles were of a nature which a thief would rather have put into his pocket than have packed up in so large a parcel; and although the drawers of the sideboard in the parlour, and of the writing-desk in the drawing-room, were pulled open, nothing was found to have been extracted. In his lordship's bedroom a state of things presented itself which tended to confirm the suspicions of the police, and to supply a motive for the crime. His lordship had been in possession of a case containing ivory *rouleau* boxes, which are usually employed to contain gold coin. The boxes belonging to his lordship would hold about five hundred sovereigns, and it had been remarked by Courvoisier, that although he was entrusted with the keys of his

master's drawers and trunks, his lordship would never permit him to go to this case. Upon examination by the police, the *rouleau* case was found to have been opened, and the *rouleaux* having been searched, fruitlessly, for money, they had been placed on one side. The jewel-box and the note-case of the deceased had also been opened, and while from the former several articles of small value had been taken, from the latter a 10*l.* note, known to have been in the possession of his lordship, had been carried off. A purse containing gold had also disappeared. The rushlight, which had been lighted by the valet, according to his own statement, when his lordship went to bed, was found to have been extinguished within about an hour and a half after it had been left; his lordship s gold watch, together with its appendages, had been removed; and, futhermore, an attempt had been made to give an appearance to the room as if his lordship had been attacked while reading in bed. A book which his lordship was known to have been reading in the course of the evening, "The Life of Sir Samuel Romilly," who, by a most remarkable circumstance, came to his death by cutting his throat, was lying by his bed-side, and near him was a wax-candle, burned down into the socket of the candlestick, but placed in such a situation as that it would not have afforded sufficient light to enable his lordship, in the position in which his body was found, to read one word by it. These circumstances induced a strong suspicion against Courvoisier, and his boxes were searched, but without anything being discovered tending to fix upon him the guilt of the crime; but it was nevertheless thought advisable that he should remain in custody, or under *surveillance*, until an examination of the drains of the house should have been made. For reasons of precaution, the women servants were also detained, and the most active exertions were made by the police to discover evidence which should lead to the discovery of the murderer. The commissioners of police, and several members of the nobility, were indefatigable in their efforts to render assistance throughout the whole investigation, and through their instrumentality some discoveries were made.

On Friday, the 8th of May, it was thought that a more comprehensive search ought to be made through the house, and particularly in the pantry, and some most important disclosures took place. Some appearances were observed on the mortar and on the skirting-board of the room, which induced a police-officer to remove them. He examined the floor, the skirting, and the sink, and behind the skirting-board he found five gold rings, most undoubtedly the property of his lordship. In the same place were also found five pieces of gold coin and a piece of wax. Behind another part of

the skirting was found a Waterloo medal, which was known to have been in the possession of his lordship, with a ribbon attached to it; and there was also found the 10*l.* note which has been mentioned before. The fact of the discovery of this note was a most important feature in this case. If it had been removed from the note-case, in which it had been placed, by any ordinary thief, it would undoubtedly have been carried off by him. Found as it was, however, concealed within the skirting-board of this pantry, it was taken as almost conclusive of the guilt of the valet, because no hand but his could have placed it in that position; for it is to be observed, that, from the moment of the discovery of the murder, he was placed under surveillance, and could not, therefore, have conveyed away anything from the house. A further search was subsequently made, and a split gold ring, on which his lordship kept his keys, and which had been attached to his watch by a ribbon, was found; and then, on the evening of the next day, a locket was taken from Courvoisier's pocket.

The discovery of this small article was one to which very great attention was paid, and which formed a very singular feature in the case. Upon its being taken from the pocket of the valet, he claimed it as his own. It was well known amongst the family and domestics of the deceased nobleman, that he had always carried a locket about him, containing a small portion of the hair of his deceased lady. A short time before his murder, he had missed, under circumstances of considerable mystery, this relic, to which he attached great value. He had been staying at Richmond, accompanied by no other servant but his valet, and during his sojourn there he occasionally went to Hampton, to visit his relative, Lady Sarah Bailey. In course of a conversation which he had with her ladyship, he dropped the locket out of the case in which he usually kept it, and, without having discovered his loss, quitted her ladyship's apartments, to attend divine service at the chapel at Hampton Court. On his return the locket was presented to him, and he placed it in his pocket, but from that moment he never saw it again. It was missed, and the most diligent search was made for it, but in vain; and his lordship, grieved at his loss, eventually returned to London without having recovered the relic of his former affections. Upon the discovery of a locket in the possession of Courvoisier, a presumption was raised that it was that of his deceased master, with which it corresponded in every particular; but, in obedience to his repeated asseverations that it was his own, it was returned to him. On the next day, by a most remarkable accident, the same locket, of the identity of which now no doubt any longer remained, was found concealed in a small hole under the hearth-stone in the pantry, the room in which Courvoisier

remained. Upon this the police thought fit to take him into custody, and he was conveyed away from the house; and, after he had been taken off, still further discoveries were made. On the 11th of May, a chased gold-key was discovered; and, on Wednesday the 13th, it was determined to examine the sink in the pantry. A part of the sink was covered with lead, and that portion having been removed in the course of the investigation, it occurred to the police-officer that there was something extraordinary in the appearance of the lead. He turned it up, and there he found the watch, which had been placed at the noble lord's bed-head on the night of the murder, but which on the next morning was discovered to have been removed.

These were the material facts adduced in evidence against Courvoisier upon his various examinations before the magistrates; but strong as were the suspicions excited against him, it was felt that there was still good reason to believe that he would escape conviction. An experienced attorney, Mr. Flower, was engaged to conduct his defence; and so strong a feeling had been excited in his behalf, that a liberal subscription was raised among the foreign servants in London to defray the expenses of employing the necessary counsel to appear for him at his trial. Mr. Hobler, an attorney, was engaged on behalf of the prosecution; and at length on Thursday, the 8th of June, the trial of the prisoner came on at the Central Criminal Court, before Lord Chief Justice Tindal and Mr. Baron Parke.

The court was then crowded with persons whom curiosity had drawn together to procure a sight of the prisoner, and to hear the evidence adduced against him; and, amongst those present were, the Duke of Sussex, who remained during the whole of the day, and appeared to take great interest in the proceedings; the Countess of Charleville, Lady Burghersh, Lady Sondes, Lady A. Lennox, Lady Granville Somerset, Lady Julia Lockwood, Lady Bentinck; the Earls of Sheffield, Mansfield, Cavan, Clarendon, Lucan and Louth; Lords Rivers, Gardner, and A. Lennox; M. Dedel, the Dutch ambassador; Marshal Saldanha, the Portuguese ambassador extraordinary; Sir Gilbert Heathcote, Sir Stratford Canning, Sir W. Montagu, Colonel Fox, Lord Frederick Gordon, Hon. Mr. Villiers, &c. As a proof that every part of the court was brought into requisition, it may be mentioned, that the prisoners' dock was filled with chairs, every one of which was occupied.

Mr. Adolphus, Mr. Bodkin, and Mr. Chambers, appeared for the prosecution. The prisoner was defended by Mr. C. Phillips and Mr. Clarkson.

The prisoner, who was an alien, elected to be tried by a jury of Englishmen; and the indictment having been read, he pleaded "Not guilty."

Evidence in proof of the circumstances detailed was then produced, and the first day's proceedings had closed, when the new and important testimony already referred to, affording conclusive proof of the guilt of the prisoner, was discovered.

In the course of the inquiries which had been made subsequently to the murder, some articles of plate were found to have been removed from the house of his lordship; but, after the minute examination of the house which took place, there was good reason to believe that this portion of the transaction had occurred long before, and not after, the murder. All the efforts of the police to discover this stolen property had proved ineffectual; and although large rewards had been offered for its production, it was not until the evening of the first day's trial that it was brought forward. An intimation was then conveyed to Mr. Hobler of the fact of its being in the possession of Madame Piolaine, the keeper of a French hotel in Leicester-place, Leicester-square; and upon its being inspected by persons who were competent to speak to its identity, they at once most positively proved that it was the same which had been formerly in the possession of his lordship. The circumstance of this most extraordinary discovery was directly notified to the prisoner's attorney; and Courvoisier being by him consulted as to the truth of the allegations made, he at once admitted his guilt. At this stage of the proceedings, it was felt that such a confession placed the advocates who had been employed on his behalf in a condition of the greatest difficulty. For them to have thrown up their briefs would have been at once to admit the uselessness of any efforts to save their client from an ignominious death—a duty to the performance of which they had pledged themselves; and it was therefore determined that they should continue their defence of the prisoner, although the line of conduct which it became proper to pursue was necessarily much altered by the discovery which had been made to them. The instructions which they had originally received, went to the extent of calling upon them to endeavour to procure the implication of the female servants of his lordship, and of the police, who were to be charged as their companions and associates in crime in the murder of Lord Russell, and in a conspiracy to secure the conviction and execution of the valet; but although the former portion of this defence was of course deemed fit to be withdrawn, some remarks made by Mr. Charles Phillips, in his speech for the prisoner, gave rise to considerable discussion at the time, but it has since been pretty generally allowed that

the learned counsel was misrepresented, and consequently too harshly commented on.

To proceed, however, to the new evidence which had been obtained, it will be well, in order to make it more easily understood, to lay it before the reader in the terms in which it was produced at the trial at the end of the second day's proceedings.

After being sworn, Charlotte Piolaine deposed as follows:—"My husband keeps L'Hôtel de Dieppe, in Leicester-place, Leicester-square. I know the prisoner at the bar. I knew him about four years ago. He came to our hotel in the situation of waiter. I don't recollect that he gave me his name, nor did I know it. We used to call him John in the hotel. French is generally spoken in our hotel; and we called him Jean. He lived with me as a servant for about a month or five weeks, not longer. I never saw him since that time till about six weeks ago. He came to me at the Hôtel de Dieppe on a Sunday morning. He merely asked me how I was, staid a short time, and went away. I did not recognise him when he first came. As it had been some time since I saw him, I could not recall his features to memory. He said, 'Don't you remember me? I am Jean, who lived with you some time ago.' He staid but a few moments and went away. I asked him in the bar if he was in a situation, and he said 'Yes;' and I said 'I am very glad of it.' I saw him again on the Sunday week or fortnight afterwards, I cannot remember which. He came in and asked me how I was. It was in the evening, and he had a parcel in his hand—a paper parcel. He asked me to take care of it till the Tuesday following, and he would call for it. I said 'Certainly I would,' and he left it and went away. I put up the parcel in a closet. I did not know at that time what the parcel contained. It was a sort of brown paper parcel, about eighteen inches long, and it was tied up and sealed. He did not call for it on the Tuesday following, and I never saw him since till to-day. I heard once or twice of the murder of Lord William Russell. The parcel had certainly been left with me before I heard of the murder, but I did not suppose it to be connected with that event. I took it out of the closet for the first time yesterday morning. I kept it at the bottom of the cupboard. I was induced to take it out in consequence of an account which my cousin read in a French newspaper, and shewed to me. I communicated with my cousin, and with Mr. Gardine, for whom I sent. He lives in King-street, Soho, and is a chaser and modeller, and I sent also for Mr. Cumming. He is a solicitor, I believe, and is a very intimate friend of ours. My cousin Vincent is my husband's partner in the hotel. The parcel was opened in the presence of these persons. It was never

opened before from the moment it came into my possession. (Mr. Cumming, who was subsequently examined, here produced the parcel, which was about eighteen inches long by six wide.) That is the parcel, and that is the paper that was on it. (The witness, by the direction of the counsel, opened the parcel.) It contains spoons and forks of silver, two pairs of new stockings, a pair of gold auricles for assisting the hearing, a pair of dirty socks, and an old flannel waistcoat and jacket. The jacket was wrapped round the other articles, and there is also some tow or yarn which would have the effect of preventing the plate from rattling or being felt. When we discovered these things, Mr. Cumming immediately put it up again, having first put in an inventory which he took down on paper, and which we all signed, and took it away. He brought it here I believe."

Louis Gardine: "I am a chaser and modeller, and live in King-street, Soho. I know M. Piolaine, who keeps the Hôtel de Dieppe in Leicester-place. I remember a man bringing a parcel to the hotel on a Sunday, but I do not recollect the exact time. I was only a visitor, and did not take much notice. The parcel was wrapped up in brown paper. I do not know the man who brought it, I had not, to my knowledge, ever seen him before. I cannot identify the prisoner as the man. I was fetched by Mr. Vincent yesterday about some news that was in the paper, and I went to the hotel. We went directly to Mr. Cumming in the city. We found him there, and he came back with us to the hotel. A parcel was then produced, and Mr. Cumming cut the string and opened it, and it was found to contain some silver and some other articles; and a list was made out of its contents."

Mr. Richard Cumming: "I am a solicitor, and carry on business in the Old Jewry. In consequence of a communication I received from Gardine and Joseph Vincent yesterday, I went with them to M. Piolaine's, in Leicester-place; and a brown paper parcel was produced. I was consulted as to the propriety of opening it, and it was ultimately opened by me. I made out a list of the articles, which I now have, and fastened the parcel up again. Before doing so I observed the crest on the spoons, and proceeded to Ridgway's the booksellers, where I learned that the crest, a goat, was that of the Bedford family. I immediately proceeded to Marlborough-street police-office, to seek the magistrates' advice and to be relieved of the possession of the parcel. I had an interview with the clerk to the magistrates, and in consequence of what transpired, I came down to the Old Bailey in a cab. I arrived here about six o'clock, and sent in a note to the solicitors for the prosecution, Mr. Wing and Mr. Hobler, to whom I made a communication. The paper brought in some

time ago contains a portion of the contents of the brown paper parcel, but having placed my initials upon it and the articles, I gave up the brown paper and the remaining contents to an officer by direction of Mr. Hobler. The paper produced is the covering of the parcel, and the articles I produced were contained in it. On the back of the cover there has been an address, which is nearly erased. Besides the spoons and forks there was some ear apparatus, made of gold, in a box. I produce the list signed by myself and the other parties. The articles consisted of four silver table-spoons, four silver dessert-spoons, two silver tea-spoons, four silver forks, one leather box containing two instruments for the ears, two pairs of white stockings, with no mark on them, one pair of white socks, each marked C 4, one flannel jacket, another jacket which I have called a flannel jacket, and a small quantity of tow or yarn."

Other evidence, by which the stockings were proved to have belonged to the prisoner by his washerwoman, and by which the brown paper in which the parcel was wrapped was proved to have been sent to Lord William Russell, around a framed print of the "Vision of Ezekiel," from the shop of Mr. Molteno, a printseller in Pall Mall, was then produced, and the trial was again adjourned to Saturday.

On that morning, Mr. C. Philips addressed the jury at very great length on the part of the prisoner, contending that the evidence was that of suspicion only; but Chief Justice Tindal having summed up, a verdict of "Guilty" was returned.

The learned judge then proceeded to pass upon the prisoner the sentence of death. He said, that he had been found guilty by an intelligent, patient, and impartial jury of the crime of wilful murder. His guilt had been established beyond the possibility of doubt. The circumstances which surrounded the case were not of an ordinary description. It was ordered by the holiness of God that his crime should not go unpunished; and the Almighty power was exemplified in no common manner in the course and progress of the investigation. It was ordained that that which was hid in darkness should be brought to light, and that an offence of the greatest magnitude and the most hateful in the sight of God should not remain concealed. He (the prisoner) had felt no compunction at his conduct; he entertained no regard for the sacred duties which bound a servant to his master; but under that master's own roof he had committed upon him, aged and unprotected as he was, the awful crime of murder. By this horrid act, domestic and social society received a shock; and, in order to prevent the perpetration of such offences by others, it was necessary that the law in this instance should take its course. He could hold out no hope to him in

this world, and he earnestly entreated him to prepare to undergo the last sentence of the law. It was necessary that he should receive that punishment, in order that others should take warning, and abstain from a breach of the law. What had inclined him to commit the horrid act did not appear. The love of lucre first induced him to break the law, and that might have led to the commission of this offence. The learned judge again earnestly entreated him to make the best use of his time, and endeavour to make his peace with the Almighty; and he then passedthe ordinary sentence of death upon the convict.

Throughout the whole of the three days occupied by this trial, the court was crowded to excess with persons who most anxiously watched every change of evidence affecting the prisoner. Courvoisier during the first day appeared confident, and surveyed the court with much apparent courage and coolness; but upon the following morning, his altered position was clearly exhibited by the anxious expression of his countenance, and the melancholy hopelessness by which his whole conduct seemed to be characterised. On the last day his demeanour even more plainly exhibited how little he expected to escape from the punishment due to his crime; and he received the last sentence pronounced upon him by the learned judge with little apparent feeling.

Upon his being conveyed from the court to the interior of the jail, he made no hesitation in at once admitting to the governor, Mr. Cope, that he had been justly convicted; and he expressed his greatest anxiety, that the female servants should be relieved from all suspicion. He subsequently became sullen and reserved, and seizing an opportunity when the jailor had quitted him for a few moments, he endeavoured to choke himself by cramming a towel down his throat. This attempt was, however, frustrated by the vigilance of the turnkey; and he became more communicative after he had received spiritual consolation from Mr. Carver, ordinary of the jail, and from M. Baup, minister of the French church in Threadneedle-street.

On the following day, the wretched man made the annexed confession in the presence of Mr. Flower, his attorney, and Mr. Cope:—

"*Newgate, June* 22, 1840.

"On the Friday before the murder was committed I began two or three times not to like my place. I did not know what to do; I thought if I gave warning none of my friends would take notice of me again, and I thought by making it appear a kind of robbery he would discharge me; and on the Saturday before I took this plate to Leicester-place, I had a mind to rob the house on Monday, and after I had forced the door down

stairs I thought it was not right and went to bed—nothing further happened on the Monday. On Tuesday night, when his lordship went to bed (he had been rather cross with me before about the carriage) he gave me two letters, one for the post, and told me rather angrily, that he was obliged to write those letters in consequence of my forgetting the carriage; this was in the drawing-room, about eleven o'clock at night. I then went down stairs into the kitchen, and stood reading a book for some time. About twelve o'clock he rang the bell. I went up to him and took the lamp out. After that I thought he had gone up stairs to his bedroom; and when he rung his bedroom bell, I thought it was to warm his bed, and I took the warming-pan up with coals in just as usual, and he began to grumble because I did not go up to see what he wanted, instead of taking up the warming-pan. I told him he always used to ring the bell for the warming-pan, and that it was for that purpose he had rung; and he said that I ought always to go and answer the bell first, to see what he wanted. He took off his clothes, and I came down stairs again with the warming-pan, and I waited there until about twenty minutes past twelve. He rang again for me to warm his bed. He told me rather crossly, that I should take more notice of what I was doing, and what he was telling me, and pay him more attention.

"I did not answer at all, as I was very cross. I went down stairs, and put everything in the state it was found in the morning. As I was in the dining-room with a light, he came down stairs to the water-closet: he had his wax-light. I was in the dining-room, but as he had his slippers on, I did not hear him come down. He opened the dining-room door, and saw me. I could not escape his sight. He was quite struck, and said, 'What are you doing here?—you have no good intentions in doing this; you must quit my service to-morrow morning; and I shall acquaint your friends with it.' I made no answer. He went to the water-closet, and I went out of the dining-room down stairs. He was about ten minutes in the water-closet, and I waited to see what he would do after he came out. While he was in the water-closet I put some of the things to rights again in the dining-room. When he left the water-closet, he went into the dining-room, where he staid about a minute or two. I was on the corner of the stairs that goes from the dining-room to the kitchen. I watched him up stairs. I stopped perhaps an hour in the kitchen, not knowing what I should do. As I was coming up stairs from the kitchen, I thought it was all up with me, my character was gone, and I thought it was the only way I could cover my faults by murdering him. This was the first moment of any idea of the sort entering into my head. I went into the dining-room

and took a knife from the side-board. I do not remember whether it was a carving-knife or not. I then went up-stairs. I opened his bed-room door and heard him snoring in his sleep; there was a rushlight in his room burning at this time. I went near the bed by the side of the window, and then I murdered him; he just moved his arm a little; he never spoke a word. I took a towel which was on the back of the chair, and wiped my hand and the knife; after that I took his key and opened the Russia leather box, and put it in the state it was found in the morning, and I took all the things that were found down stairs—the towel I put over his face; I took a purse, I also took a 10*l.* note from a note case, which I put in the purse, and put them in a basket in the back scullery; the day after I thought it would be better to put it behind the skirting board. I had, before I went to Richmond, lost a shilling behind the skirting board, so I thought that would be a good place to put it.

"While at Richmond, Lord William's locket dropped from his coat while I was brushing it. I picked it up, and put it in my trousers pocket, but had not the least idea of taking it. I intended to have returned it to his lordship, while I dressed him in the morning. I put my hand in my pocket at that time, but found I had changed my trousers; this was on the morning we left Richmond for Camden-hill. I did not put the trousers on again while we were at Camden-hill. I did not recollect the trousers being different, and thought I had lost the locket. I then thought it best to say nothing about it. On the Friday morning I was looking at some of my old clothes, the policeman who had cut his chin was watching me, and in taking the trousers out of the drawer in the pantry the locket fell out of the pocket; it was wrapped up in a piece of brown paper; the policeman opened the paper and looked at it, and said, 'What 's that?' I said to him it was a locket; but in the position in which I was, I did not like to say that it was Lord William's locket, as if I told the truth I should not be believed; the policeman then returned it to me, and I put it in my trousers pocket. The watch and seal were in my jacket pocket, which I had on until the Friday morning; and then I undid the ribbon, and took the seal off; it was the day the sweeps were in the house, which was either the Thursday or Friday; having the watch in my pocket the glass came out; I did not know what to do with it, as the police were watching me, so I took the watch from my pocket and put it in between the lining of my jacket, and twisted the pocket until I smashed the glass; after that I dropped some of the pieces about the dining-room; and, at different times, put the large pieces in my mouth, and afterwards, having broke them with my teeth, spat them in the fire-place. The watch I had by me until Friday

morning. I then burnt the ribbon, and put the watch under the lead in the sink. I kept the seal in my pocket until they came into the dining-room to shew me the ring they had found behind the skirting board. When I was called to go down to the pantry, I let the seal fall and put my foot upon it, and afterwards put it behind the water-pipe in the scullery. Beresford and Cronin and two masons were there at the time taking the drain up, but did not see me do it. The watch, the seal, and the locket, together with two sovereigns, I had about me until the Friday, and if they had searched me they must have found them; but they did not do so until Friday, after I was taken into custody in my bed-room. The two sovereigns I afterwards (on the Friday, when I slipped the locket under the hearth stone) also slipped down near the wall under the flooring. I had scarcely had any beer all the week, and the ale that I had drunk that night, together with the wine, and some more I took after the cook went to bed, affected me. I turned up my coat and shirt sleeve of my right hand when I committed the murder. I did not use the pillow at all.

After I had committed the murder I undressed and went to bed as usual. I made the marks on the door on the outside, none of them from the inside, for the purpose of having it believed that thieves had broken in. I never made use of the chisel or the fire-irons. I placed the things about the house to give the appearance of robbery. It is not true that the bottom bolt was never used to secure the door; it was bolted that night. I took the jewellery after I had committed the deed. All the marks on the door were made from the outside on the Monday night, for I got out of the pantry window and broke in at the door, and while getting out of the pantry window made a little mark on the wall outside, near the water-pipe, which the witness Young saw, and mentioned in his evidence. I went to bed about two o'clock. I burned nothing. Sarah Mancer knew nothing about it. Neither did the cook, or any of the other servants. I am the only person who is at all guilty.

"François Benjamin Courvoisier.

(Witness) "Thomas Flower.

"William Wadham Cope. "22nd June 1840."

On the 23rd of the same month, however, he made a short confession, in which he contradicted the statement of his master having threatened to discharge him, and which was in the following terms:—

"After I had warmed his lordship's bed, I went down stairs and waited about an hour, during which time I placed the different articles as they were found by the police. I afterwards went to the dining-room, and

took one of the knives from the side-board. I then entered the bed-room, and found him asleep. I went to the side of the bed, and drew the knife across his throat. He appeared to die instantly."

"*Prison of Newgate, June 23.*

"This declaration was made before me this 23rd of June, 1840.

"WILLIAM EVANS, Sheriff."

His subsequent admissions tend very materially to shew that a considerable portion of his confession, even as amended, was untrue, and the frequent alterations which he made in his statements, leave room for much doubt as to many of the circumstances related by him.

On the 3rd of July he added another document to those which he had already written. It was headed thus:—"François Benjamin Courvoisier gives some account of the short duration of his life, which is to terminate on the 6th day of July, 1840." It was written in French; and the following is a faithful translation from the original:—

"I was born of very pious parents, who have neglected nothing on their part for my education and religious instruction; on the contrary, they have done all in their power; and if I am not so well informed as I should be, it is my own fault. It has been my evil habit to have always had a falsehood in my mouth ready to excuse what I did wrong, or what I omitted to do. I fancied that it was more disgraceful to have a bad memory than to be a liar. At the age of twelve, when I was very religious, I loved God and my parents, I was kind to my sisters, and took pleasure in doing what was good and right before God; but unhappily the schoolmaster did not remain in my village, and his successor was not so religiously disposed. I soon forgot all the good I had been taught, and again became such as I was before. It is true that I was not immoral, but I had no longer those holy inclinations in my heart. I confirmed my baptismal vow at the age of sixteen, and afterwards received for the first time the Holy Communion. I now began to be righteous in the sight of men only, and I thought that this was the highest duty of a Christian, and that if I gave satisfaction to men I did so to God also. My parents had a peculiar affection for me, and placed much confidence in my good conduct; they thought that I was th one in their family who was most anxious to reward the pains they had taken in my youth. I fancied that I loved my parents as myself; but if I had indeed so loved them, I should not have acted as I have done. It is true that I considered myself a good Christian. I cannot say that I often thought of God, for then I should not have sinned as I have done; all who

knew me believed that I acted uprightly, and I thought so too. I had already acted unjustly towards Mrs. Fector, at the time of leaving her. I know that I should not have dared to act thus a year before. This proves that I had already begun to forget God, and that Satan had already some power over me. After I left Mrs. Fector, and went to my last unfortunate place, I felt confident in my own strength, and began to say within myself, 'Next year I will do such and such things,' but never did I say, 'If it pleases God.' During the first part of the time I was with Lord William Russell, I was tolerably comfortable until we went to Richmond, when Lord William always appearing dissatisfied, especially towards the latter part of the time, I fancied that I should not be able to remain with him, and having heard the other servants speak of different scenes (towns, villages, country-houses), I began to desire an employment which would enable me to travel through England. I afterwards formed an idea that I should be able to travel on foot from city to city for six months. I then intended to endeavour to procure a place or return to Switzerland. I thought I should be able to make my friends believe that I was in place during these six months. This was the beginning of my misfortunes, for I soon commenced to harbour still worse designs. I thought that I could go to a town, take a lodging, and after remaining five or six days I would depart without payment. I thought that 10*l.* or 12*l.* would suffice for this excursion, and began to seek an opportunity for departure. But this was not enough. I began to premeditate the seizure of what this venerable victim had with him in gold, bank notes, and his watch; but this did not satisfy me. Satan, who knew that he had my heart in his power, began to persuade me that it was not enough only to rob my master, and that if suspicion rested upon me the world would be ready to believe it: and as during the time I was at Camden Hill I read a book containing the history of thieves and murderers, being under the dominion of Satan I read it with pleasure, I did not think that it would be a great sin to place myself among them. On the contrary, I admired their skill and their valour. I was particularly struck with the history of a young man who was born of very respectable parents, and who had spent his property in gaming and debauchery, and afterwards went from place to place stealing all he could. I admired his cunning, instead of feeling horrified at it; and now I reap but too well the fruit of those papers and books which I had too long suffered to supplant devotional works; and this book—yes, this book—was read by me with more attention than the holy Bible. Why so? Because my heart was under the dominion of Satan, and I had forgotten for more than a month to pray

to God, or to read His word, and perhaps I had not prayed to this Divine Saviour sincerely and from the bottom of my heart for twelve months. 'Thou honourest me with thy lips while thy heart is far from me, wherefore thou honourest me in vain, and thy words condemn thee instead of justifying thee.' But all I have just said did not satisfy the wicked desires of my heart. I have not been contented with robbing my master, having satisfied the devil, whose slave I was. My master thought me the guardian and the protector of his property. Oh, what a Judas I have been!—of what sins have I not been guilty? If I ask myself what commandment have I transgressed? my conscience tells me, all. Alas, I know well that I have taken Satan as my God; this is contrary to the 1st commandment. 2nd.—I have adored the riches and the pleasures of this world, and I have loved them more than God. 3rd.—I have often taken the name of the Lord in vain. 4th.—I have made the day of the Lord my day of pleasure and amusement. 5th.—I have disobeyed my parents. 6th.—I have murdered. 7th.—I have been in company with notorious debauchees. 8th—I have robbed. 9th.—I have spoken ill of my neighbour. 10th—I have desired the wealth of others. God says, however, that he who transgresses only one of his commands shall be excluded from the kingdom of heaven. He says that neither hypocrites, nor liars, nor thieves, nor murderers, shall enter the kingdom of God. I am, however, guilty of all these; and the good actions that I have done during my short life will not weigh as much in the balance of the justice of God as the wicked thoughts of my heart. If the transgression of a single commandment causes me to be condemned to death by the hand of man, what do I deserve at the hand of God after having disobeyed all the law, which is the commandment of God? What punishment do I now deserve? If, when I enjoyed a good character in the eyes of men, I was an abomination in the sight of God, what am I now before the Eternal? If I am the greatest of sinners in the eyes of my fellow-creatures, how shall I appear in the eyes of Him who knows all my actions, my words, and my thoughts? Condemnation and eternal sufferings are the portion I deserve."

During the time which intervened between the conviction and the execution of the wretched prisoner, he was once or twice visited by his uncle, a respectable servant in the service of Sir George Beaumont, to whom he made a statement, the substance of which was afterwards reduced to writing, and is one of those above subjoined. His general demeanour was befitting his awful situation, and he received with much attention the pious exhortations of the clergymen by whom he was attended.

On Saturday the 4th of July, two days before his execution, he addressed his final confession to Mr. Carver and M. Baup. It explains several circumstances upon which the public had hitherto been left in the dark.

"*Newgate Prison, July 4th.*

"After all the false statements which had been published in the newspapers, I feel constrained to tell you again all things as I related them to you when my uncle was here. If there are any contradictions, it is because I did not rightly understand the persons who questioned me, or because my answers were not well understood. It is true that I have not told the truth to Mr. Flower, but I have stated the reason why I did not. The public think now I am a liar, and they will not believe me when I say the truth; therefore I pray you will correct all misunderstanding on the subject, and I think it is good that I should relate again all that has passed, and how it passed. The evil dispositions of my heart began by a strong dislike (hatred) of my situation, and by the wish for another situation. My next idea was that I could live at the expense of others. Then I thought that if I were to rob my master of 30*l.* or 40*l.* it would be so much gained and I had afterwards the idea that by killing my master the robbery would be better concealed, and that I should have done with him all at once, and be ready for my journey. I took the plate out of the house on Saturday or Sunday evening. I was waiting for a favourable opportunity of accomplishing my design.

"Monday evening the 4th of May, I had an evil thought of putting my hand to the work, but, after I had forced the door, a remnant of conscience told me that I was doing wrong. I stopped about ten minutes without knowing what to do. I vanquished the temptation of the devil, and went to bed, after having put again the door in order. Oh, if I had but determined so, on Tuesday night, how happy I should be! I ought at least to have prayed to God, and thanked him for having preserved me during that temptation, but I went to bed like a dog, without thinking even that God had seen me. Tuesday evening, the 5th of May, I had some altercation with my master, but it was not worth while to speak of it. When he was in bed I went down in the kitchen, where I remained about an hour and a half. During that time I placed all things in the state in which they were in the morning, in the passage, &c. I went up stairs, and going by the dining-room, I entered into it, and took a knife, I believe it was a great knife. I went up to Lord W. Russell's bed-room. When I opened the door I heard him asleep, and stopped for a while, thinking of what I was about to do; but the evil disposition of my heart did not allow me to repent. I

turned up my coat and shirt-sleeve, and came near to the bed on the side of the window. There I heard a cry of my conscience, telling me, 'Thou art doing wrong;' but I hardened myself against this voice, and threw myself on my victim, and murdered him with the knife I was holding in my right hand. I wiped my hand and the knife with a towel, which I placed over the face of Lord William. I then took his keys, and opened the box in which he kept his bank-notes. The double Napoleons which I found were more than I expected; I put them in a purse with the rings, &c. I took also the watch, and placed them altogether in a basket till the morning. I placed a pair of shirt-buttons, a pair of spectacles, and ten sovereigns under the staircase carpet which goes from the drawing-room to Lord William's bed-room. I went to bed.

"On Wednesday, when the police had searched a little everywhere, I perceived that they watched me more attentively than the other servants, and that they began to examine very carefully; I crept in the bottom of the scullery and seized the parcel I had put there during the night, and put it in my pocket. As soon as I was in my pantry, I placed the purse where it was found. One of the police came then to me, and told me I must go with him, so that I had no time to conceal the watch. I was kept in the dining-room the whole day, excepting the time my room was searched, and I could not get rid of the watch.

"On Thursday, the 7th of May, when I went to bed, I took what I had placed under the staircase carpet.

"Friday morning, I wrapped the sovereigns in some paper, and concealed them in my stocking. I went down to the pantry. Nobody being there, I placed the watch and the ring where they have been found. The policemen came then in the pantry to shave and wash themselves. I went to the kitchen and burned the watch-ribbon. I did not know what I was to do with the seals and two watch-keys. I could not get rid of them for the present, and was replaced in the dining-room. All the morning I entertained the hope that the things I had hidden would not be discovered. I broke one of the watch-keys in three or four pieces, and then threw them in the fire-place. I broke also the top and the bottom (the two extremities) of the other. After they had found the purse, &c., they brought me down into the pantry, where I staid for some time. One of the inspectors went then into the scullery, in which I entered also, thinking of a place where I could conceal the two seals and the watch-key, the two extremities of which I had broken. The inspectors stooping to look under the sink, I placed the great seal where it was found, and threw the broken key among some old rubbish in the bottom of the scullery. I then came near the door.

After that, two inspectors and two masons being there, when I saw them busily engaged I let the small seal fall to the ground, and put my foot upon it in order to bend it. I stooped, as if looking under the boiler, took up the seal with the left hand, and rose up. I leaned my hand against the wall for a time, waiting for the moment when those who watched me should turn their heads, and succeeded in placing the seal behind the pipe where it was found. The inspectors went out thence to the kitchen, excepting one, who remained in the pantry with me for about an hour. During that time I let fall the small locket of Lord William's, and two sovereigns. They took me then to my room, where I was searched, for the first time. I had two policemen with me. They made me draw my boots, but not my stockings. I went not to bed on Friday night, nor on Saturday. On Sunday night I went to bed for five minutes, but I did not draw off my stockings. They made me rise up, and led me into prison. When I was in Tothill-fields prison they searched me very carefully. I feigned to be very cold and shivering, as a person who has the trembling fever, thinking they would let me keep my stockings on, but they told me to take them off, as I had three stockings, two on the right leg. I first took off the stocking which was alone, and then one of the others. When they were feeling if there was any pin or needle I placed my hand under my heel and concealed the ten sovereigns in a paper, under the thumb of my hand. The following morning they made me take a bath, when I had a good opportunity of hiding them on my person, where they remained till the morning of the day I came to Newgate. I thought that I should perhaps be examined more closely, and that, should that money be found on me, it would be sufficient to condemn me to death; but other evidence was found, and this was not wanted. I placed one behind the post of a bench in the cell of Bow-street, the last time I appeared before the magistrates; three on the top of the door, one on the window, as I believe, and four or five in the pit of the water-closet.

"This is, reverend sir, to the best of my recollection, a faithful account of what has passed since the time I conceived the dreadful idea of robbing and murdering my master to the day I came to Newgate. I wish to express to you my deep gratitude for the spiritual instruction you have given me, and your interest in the salvation of my soul.

"I am, my dear Sir,

"Your humble and thankful servant,

"F. B. COURVOISIER."

On the following day the condemned sermon was preached by the Rev. Mr. Carver, in terms befitting the occasion on which it was delivered.

The wretched criminal still appeared deeply sensible of his crime, and remained in prayer during the greater part of the day. At about eight o'clock in the evening he retired to rest, but awoke again at twelve, and then he gave directions that he should be called at four o'clock. At that hour he arose and dressed himself, and was occupied until the arrival of Mr. Carver in writing letters in the French language to some of his relatives. The reverend gentleman immediately entered upon prayer with the prisoner, affording him all the spiritual consolation which the situation in which he stood would admit. A few minutes after the arrival of Mr. Carver, M. Baup was introduced to the cell by Mr. Sheriff Wheelton, and the reverend gentleman also joined in prayer with the criminal.

At half-past six o'clock Mr. Newman, the principal turnkey of Newgate, was ordered to take the sacramental bread and wine into the prisoner's cell; and, in a few minutes afterwards, the holy sacrament was administered to him. The prisoner received it with great fervency of manner. After the conclusion of this religious rite, the execution proceeded, and at eight o'clock the 6th July, 1840, Courvoisier perished on the scaffold, in the presence of an enormous crowd of spectators.

Courvoisier admitted, a short time before his death, that he had contemplated self-destruction; but the vigilant superintendance under which he was kept ever since he was placed within the walls of Newgate, rendered it impracticable for him to carry his meditated scheme into execution. It is related, that he proposed to take away his life by bleeding himself to death, and the following statement was published with regard to the discovery of his object:—

At half-past ten on Sunday night, Mr. Cope went to Courvoisier's room, and told him that he must go to bed. Upon receiving this intimation he seemed dissatisfied, and expressed unwillingness to strip. Mr. Cope, however, insisted that he should pull off his clothes, and the turnkey received directions to take away even his shirt. Mr. Cope then narrowly searched the clothes, and in the coat-pocket he found a strip of cloth folded up carefully. When Courvoisier saw the cloth in the governor's hand, he acknowledged that he intended to use it as a means of destruction. "In what way?" asked Mr. Cope. "I intended," said he, to tie it tight round my arm, and to bleed myself to death in the night." "But how," said Mr. Cope, "could you have bled yourself?" "I had made preparation," said he. "I had been looking about for a pin, but not being able to find one, I sharpened a bit of wood which you light your fires with,

and I intended to bleed myself with that." "Where is that wood?" said Mr. Cope. "That, too," replied Courvoisier, "you have deprived me of by changing my bed, in which I had deposited it." He then described to the governor the manner in which he intended to get rid of life; and he declared he could easily have accomplished the object, if he had not been prevented by the caution of the governor. He stated then that he had, while in the water-closet, torn the extra cloth along the seams in the inside of his trousers, and fastened it together, for the purpose of using it as a ligature. Mr. Cope examined the mattress, which he had caused to be removed on Sunday night, but no piece of wood was found in it; and it is believed that, in the confusion of removing it, the instrument dropped unperceived and was lost.

The wretched malefactor, at the time of his death, was twenty-three years of age, and was born of decent parents in Switzerland. Having received a moderately good education, he is reported to have come to England to his uncle, who has been before alluded to, through whose instrumentality he obtained several most respectable situations. In his career in the metropolis he does not appear to have been guilty of any conduct likely to draw upon him general attention, and the dreadful crime of which he was guilty seems to have been rather the result of a sudden impulse than of pre-determined malice. The motive which prompted the deed, it is clear from his confession, was that of avarice; and while the human mind cannot sufficiently abhor an act of so atrocious a character, levelled against an aged and infirm man, unable to make any resistance, by his servant, whose duty it was to protect and assist him rather than assail him, one is at a loss to understand how a man of virtuous and sound mind could quit the path of rectitude, and, with such an object, commit so foul a murder.

It is not a little remarkable, that two members of the Bedford family met with sudden deaths before the noble lord whose destruction is here related, though in neither instance by the hands of an assassin. A former Duke of Bedford, and the Marquis of Tavistock, the father of the deceased nobleman, were both of them killed while hunting.

THE ACTION FOR BREACH OF PROMISE OF MARRIAGE AGAINST EARL FERRERS.

THIS most extraordinary case is of such recent date that any comment upon it would be premature and injudicious. The following account of it, therefore, will be confined to a summary of the report of the trial, as taken from the shorthand notes of Messrs. Cherer, and published by Mr. William Pickering in 1846.

The action was brought by Miss Mary Elizabeth Smith, against the Right Hon. Washington Sewallis Shirley, ninth and present Earl Ferrers. The damages were laid at £20,000. The trial took place in the Court of Queen's Bench, Westminster Hall, before Sir William Wightman, one of the Justices of that Court, and it lasted four days, from the 14th to the 18th of February, 1846. The Counsel for the Plaintiff were the Solicitor General (Sir Fitzroy Kelly), Mr. Montagu Chambers, Q.C., Mr. Robinson, and Mr. Symons. The Counsel for the Defendant were the Attorney General (Sir Frederick Thesiger), Mr. Crowder, Q.C., Mr. Humfrey, Q.C., and Mr. Barstow.

After Mr. Symons had opened the pleadings, the Solicitor General thus commenced his statement of the Plaintiff's case.

"May it please your Lordship; Gentlemen of the Jury;

"You have learnt from my learned friend the nature of this action, and when I tell you that it involves the character and happiness, and all that is dear in life to the young lady, on whose behalf I now have the honour to address you, I need not add that it is a case, to her, of the last and deepest interest and of unspeakable importance; and I am quite sure that I shall not solicit in vain your patient and minute attention to the case which I shall now proceed to state to you.

"Gentlemen, the young lady for whom I appear, Miss Smith, is at this time barely twenty-one years of age, and at the period to which I shall have more especially to call your attention, was of the age of between seventeen and eighteen; and at that period, under circumstances

which I shall proceed to detail to you, became acquainted with the Defendant, Lord Ferrers.

"His Lordship, as you may possibly be aware, is a nobleman of very ancient family, and vast landed possessions in the counties of Leicester and Stafford, and some other of the midland counties, and he is himself young, having, I believe, only attained the age of twenty-one years early in the year 1843. His grandfather, the last Earl Ferrers, died, I believe, in the same year, 1843.

The *Attorney General*.—"No; the 2nd of October, 1842

The *Solicitor General*.—"Died in the month of October, 1842. The father of the present Lord, Viscount Tamworth, never succeeded to the Earldom, he having died several years ago, before his father, the grandfather of the present Defendant, the last Earl Ferrers. This young man, Lord Ferrers, when Viscount Tamworth, before the death of his grandfather, was placed under the care of a gentleman of the name of Echalaz, at the village of Austrey, in the county of Warwick; and he there, under the care of this gentleman, continued to acquire an education, to prosecute the usual studies of a young man of rank and of fortune, and he remained under the care of this gentleman until, I believe, the year 1840, when he went abroad for the space of two years, returning about the year 1842; and from that time, until the occurrence of certain events which I shall have to detail to you, resided sometimes in London, but principally at one or the other of two of his seats in the country, Chartley Castle or Staunton Harold.

"Gentlemen, Miss Smith, the young lady, who appears as the Plaintiff in this case, is the daughter of Mr. Smith, also residing at Austrey: he is a gentleman of moderate means, of high character and respectability, well connected, and he married a lady, the mother of the present plaintiff, who was herself, although also of very moderate fortune, extremely well connected, being descended, I believe, from the Curzons, the family of Lord Scarsdale, a family not distantly connected with that of Earl Ferrers himself.

"Mr. and Mrs. Smith and their daughter, and the rest of the family, resided at Austrey during the whole time that Lord Ferrers was there under the care of Mr. Echalaz, and as long back as the year 1839; possibly there might have been some sort of acquaintance earlier: but I need not carry your attention further back than that period. As early as the year 1839 Miss Smith attracted the attention of Lord Ferrers, then Lord Tamworth, who was studying, as I have stated to you, in the same place, and at a very short distance from the residence of Mr.

Smith. They met; in what way first it is vain to inquire; they occasionally passed each other, stopped, spoke to each other, and came gradually into some sort of communication and intercourse, at all events, as early as the year 1839, and this kind of occasional meeting, conversation, and sometimes a little letter writing, or note writing, passed between them from that time until the time when the Earl went abroad.

"Miss Smith, who was a young lady of considerable personal attractions, who had had an excellent education, and most of the accomplishments bestowed upon young ladies in this country, succeeded, or fancied she had succeeded in attracting not only the attentions, but in gaining the affections of Lord Ferrers; he made to her the most passionate, and apparently the most sincere declarations of love, of unalterable, of unchangeable attachment. I need not say, gentlemen, that independently of all other considerations, a young girl, who, though well born and well bred, was so vastly inferior in fortune, station, and rank, nay, all that at first sight is calculated to command admiration and to fascinate the mind and feelings of a young girl, to my Lord Ferrers; that she readily, perhaps too readily, gave way to feelings which came upon her, and soon became sincerely and deeply attached to him.

"Gentlemen, this attachment which may have been, and one is willing to hope *was* mutual and sincere on one side, as it undoubtedly was on the other, until the time when Lord Tamworth was going abroad; before he went abroad he prevailed upon this young lady to pledge to him inviolable attachment, inviolable fidelity; and he assured her, when time and his own age and circumstances would permit, that he would undoubtedly make her his wife. The sort of intercourse which had been carried on between these two young people, which had excited some little attention upon the spot, as they were every now and then seen together, could not fail to reach the ears of her parents, Mr. and Mrs. Smith, and they spoke to their daughter upon the subject. Gentlemen, I need not, of course it would not be correct that I should, enter minutely into what passed between the father and the daughter, because it is not admissable in evidence, not having passed in the presence of the defendant; but I may not incorrectly state thus much; that they felt the attentions of one so immeasurably above their daughter in rank and station were to be looked upon with some suspicion, if not with alarm; they perhaps dreaded what has since happened, and they were desirous, as far as possible, of preventing a continuance of a connexion which they could scarcely hope would terminate honourably and happily, which they might well have some reason to fear might ter-

minate in the most painful, in the most unhappy manner for their daughter; they removed her for a time; they sent her to school in London; they afterwards sent her to France, where she finished her education. And this brings us to the period when Lord Ferrers went abroad; I pass over the interval of about two years, and come to the time when he returned to this country, which I think was in the year 1842.

"Gentlemen, from the time of his return until the period when most of the correspondence took place between the parties, the period when the marriage was fixed, and was (as fondly hoped by Miss Smith and her family) about to take place, he sought every opportunity of continuing that intercourse which had commenced at the period I have mentioned, and securing and binding fast to himself the affections of Miss Smith, which he had already gained. He lived, as I have stated, when in the country, either at Chartley Castle, somewhere about thirty miles from Austrey, or at Staunton Harold, a distance of some fourteen or fifteen miles; but he often came over to Austrey, and as often as he found practicable, met Miss Smith, and continued to give her the same fervent assurances of continued and unalterable attachment.

"Gentlemen, at this time letters passed between them; a great many have not been preserved, and at length when he had become Earl Ferrers by the death of his grandfather, when he had arrived at an age when there was no reason why he should not please himself, the conversations that took place between them became directed more particularly to what was supposed to be the object and wish of both, namely, their early union. And in the course either of the end of 1843, or the early part of 1844, it was agreed between them that their union should take place in the month of May. You will find in the course of the correspondence, to which I shall have occasion to call your attention, and which I shall lay before you, such of it I mean as is still in Miss Smith's possession, you will find that from circumstances which are alluded to in the letters, the marriage was postponed from May until a later period in the year; but it was ultimately determined that it should take place in July or in August. And at that period, or just before it, every preparation was made; it was no longer made a secret among the intimate friends of the young lady; the time was mentioned, dresses were prepared, bride cake, I believe, ordered; certainly bridesmaids chosen; every thing was done that is usually done upon such occasions with a view to the nuptials of a lady with a gentleman; and it was only towards the middle or the end of July that this unhappy young lady was awakened from her dream, by reading in the newspaper the marriage of Lord Ferrers to a young lady of the name of Chichester.

"Gentlemen, in calling your attention to the correspondence which passed between these parties, and to other circumstances connected with the case, you will see better than I can state to you the history and the progress of this case, you will be able without any comments, still less without any topics addressed to you calculated to inflame your feelings, to appreciate the true character of this case; you will be able, I hope, and I am sure, to sympathize with this young lady, whose peace of mind, whose happiness, whose prospects in this life are for ever sacrificed by the breach of faith, by the cruel perfidy of this young nobleman.

"Gentlemen, with regard to those communications which took place in the course of 1843, as far as it was by letter, I am unable to produce letters before you: he was in the habit of writing upon scraps of paper, sometimes very small scraps of paper, and sometimes in a hand scarcely legible, and many of these have been lost; but towards the beginning of 1844, his letters not only increased in fervency of declaration of all kinds of attachment, and kindly and affectionate feelings towards this young lady, but they likewise very considerably increased in length: she had written to him, she had sent him one or two little presents, a handkerchief, something of that kind in which she had worked her initials with her own hair; and had some little communication of that kind with him; he seeing her very often, at least (so he said), as often as he could see her, as often as he could come over from either Chartley or Staunton, wherever he happened to be staying, and writing to her from time to time, writing in a free and unrestricted manner, until the time when, as I have stated to you, the marriage was about to take place.

"Gentlemen, in 1844, after a letter that had been written by her to him, which possibly *may* be produced, though for reasons, which I shall have to state to you before I sit down, I cannot in any way rely upon any letter that I may call for being produced on the part of the defendant, but she had written to him more than one letter early in the year 1844, and somewhere about the month of February, for the letter itself I should state is not dated with the month or the year, so as to distinctly prove it, but from circumstances alluded to there will be very little difficulty as to the real time when this, and all the other letters were written; in the month of February 1844, as far as she can remember, about the 11th or 12th of the month, she received this letter: 'Dearest Mary, if wishes could transport me to you, there would be no need of this writing, but as I am anxious, most anxious, to hear of your well being, and also to tell you that business relating to my late grandfather's will, may detain me longer than I thought of from you, I send you this—my good cousin Evelyn,' that is a Mr.

Evelyn Shirley, whose name you will hear very often mentioned in these letters, and probably in the course of the case; 'my good cousin Evelyn advises me not to take my seat just at present.' This was written, you see, after he had become Earl Ferrers, and after he had come of age, 'as he thinks it not necessary; the fact is, though he won't own it, he fancies me no Tory in feeling, and would of course like that I should be one in truth; I myself think it will be wise to be quiet for the present. It needs not I should tell you again Evelyn is a clever fellow, an ultra Tory, ever condemning Sir Robert for his even measures.'

"Gentlemen, if one may pause for a moment in a serious case, one might almost suppose, if circumstances did not render it impossible, that this letter had been of a later date. 'An ambitious man' (*that* is Evelyn, not Sir Robert!) 'an ambitious man and a very proud one, attached to Devereux much, and thinking me somewhat obstinate and stupid for not seeing clearly, and acting up to his wishes in each respect. Really this weather is tremendous, so cold. The other night I saw the 'Bohemian Girl,' the performance pleased me much. Talbot is in town. Monk 's really gone to Rome with the Stourtons; I have seen chairs—'

"Gentlemen, just let me pause for a moment; this is not a case, such as is sometimes presented to a jury, in which a doubt is raised whether expressions of attachment, whether by word of mouth or in writing really amount to a promise of marriage, because you will find throughout these letters, written in the freest and most unembarrassed style, you will find that which can leave no approach to doubt upon your minds; not only that he had promised marriage, which he had done years before, but that it was actually settled and determined between them when the marriage should take place; all that was to be considered was what were the measures to be adopted, what things were to be done with a view to that event, even after the marriage should have been solemnized. He says, 'I have seen chairs that I think will do for one of our rooms at Chartley. Won't the old Hall be bright and happy when its future mistress takes possession of it. Pray take every care of yourself, dearest; forget not you are the only hope of one to whom a palace would be but a desert and England no home without you; far dearer to me than each earthly blessing, without which no one or any would be of value. Mary, you who are all in all to me, take care of yourself, and mind when you return from walking you change your shoes. You may laugh at me, but you are not particular, I know, in this respect, and you may take cold; also pray wrap up very warmly, and do not sit too long over that embroidery frame, nor vex yourself with thinking of imaginary evils; surely if we love each other we may pass

through this vale of thorns and thistles, as you are pleased to term it, tolerably. We must support each other and you look bright and happy as you used to do in days of yore. It has often struck me there is something untold to me, some secret care, I know not of, that troubles you; why not, dear girl, tell me if it is so, for I have often seen you sad and unhappy, and the thought is with me still there is something; pardon my thus speaking; I would lighten every care as far as lay in me and bear all your troubles for you, so I saw you happy;—I hope soon this will cease—in May, that you may be my bride, my wife, then all that is mystery now will be cleared, and your father not to have to look for the marks of horses shoes in that hovel of his, but that Zimro may be found in his stables; this will amuse you.' Whether that was the name of one of his horses or what it is, I am not at this moment informed, some allusion or another not very important. 'Do not let any one see my note, I am ashamed of it, the writing is so illegible. I was at Brighton the other day and saw my sister; Devereux is going to stay there for a time. Captain Westall, Talbot, and the Honourable Charles Davy, are dining with me at Mivart's. I think it likely I shall be obliged to go to Eatington for a day or two.'

"I should observe, Gentlemen, as you will find in the course of these letters, from a cause it is difficult to explain, this young man, who was of an extraordinary capricious character (who, it is painful that I am obliged in the discharge of my duty to say, has never, never in his intercourse with this young lady, or, I fear, in his present conduct with a view to this defence, adhered to the truth), was of a strangely wild imagination, and in writing these letters, written with apparent rapidity and free mind and heart, continually over and over again alludes to things and persons which are merely the creation of his own imagination; in the strongest and most inconceivable manner does he do this in various parts of these letters; some explanation will probably be given you by and by on that subject. I merely make the observation now as some things in this letter, and others, would appear indeed to ordinary persons, from a well regulated, well educated young gentleman or nobleman, perfectly unintelligible and inconceivable, from him, are all within his natural character, and unfortunately the habits which he has acquired."

The learned counsel then proceeded to detail to the jury, and comment upon further portions of the letters he was about to put in evidence, as received from Lord Ferrers by Miss Smith; among them, the following, as read by the Solicitor General, are in reply to the two presents of handkerchiefs which Miss Smith sent.

"'Dearest Mary,—Your parcel and last note reached me the day ere yesterday, and though much engaged, I write immediately to thank you for them. The handkerchief I shall prize above all other handkerchiefs.' I told you she had sent him a handkerchief with her initials marked with her own hair. 'The handkerchief I shall prize above all other handkerchiefs. Thank you much, dearest. Your note I have read and re-read. I am grieved to hear so ill an account of you—not from your note, for that says nothing, but from my brother, whom I saw, and who told me he had seen you.' That is the brother Devereux, who seems from time to time to have had a good deal of communication with his brother, my Lord Ferrers, on the subject of this young lady. 'What is the reason of all this, that you should be so ill; by day and by night it haunts me. I have thought for some time you have not seemed yourself; but when I ever asked you, you have always most dexterously turned the subject. Now it really distresses me very much, and vexes me too. You are so very reserved, and never tell me anything, though you must know how anxious I am about you, or you, at least, ought to do. Really I think it unkind never hardly mentioning in your note your being out of health. Now do write soon, and tell me if you are better, for I shall not be down in the country for perhaps another week or fortnight, unless I come down one day and return the next, to see you; but I hope you will shortly be better. Do not work, do not do anything to tire you, but get well; would it not be well to go to some watering-place for a month? I think change of scene would benefit you. What does Taylor say of you? I have foreseen this some time, and told you how careful you should be. No doubt you have caught cold from not wrapping warmly. Naughty girl, so much as I have said to you about it. Really, dearest, do take care of yourself; surely all will be right by May, for you know then you are to be mine, and I shall have to watch and take care. Then will it not be joy and happiness for me to have you quite mine own. Dear one and most beloved, remember, health is the first consideration. Oh! take care of your precious self. Evelyn, (Cousin) is appointed guardian to the young Hastings; you would see, perhaps, in the papers, with several other gentlemen. I often go to hear the speeches in the house; really it is a great treat, and what you would like, and your father too, much, I fancy. When we stay in London for our marriage, he must come up, and then he will have the pleasure of hearing his friend Sir Robert speak.'"

Part of another letter runs thus:—

"The second handkerchief has been received, dearest Mary, and with it your own kind and sensible note; 'tis good to hear from you, best and most

beloved, and these notes make me more than ever satisfied with her whom I have chosen for my future wife, only for the shade of gloom contained in them do I get into what is vulgarly termed a fidget, and wander; but of this no more. I must now tell you I have been for three days confined to my bed with pain chiefly arising from my arm. I am now better, but still in pain; but, dear Mary, do not let that alarm you. I shall soon be quite well again. The Shirleys are very kind to me. I hope next week to have finished my affairs here, but cannot tell when I shall see you. But you will hear from me again if I do not come down. I think the cold took my hand when I travelled to Eatington, for I have never been well since. I hope you are indeed better than when I saw you. Remember your promise to me; if there be anything you wish for, pray do not scruple mentioning it. Recollect all I have is at your command, for all the world be nothing without you, more precious to me than all else earthly."

The Solicitor General, after further commenting on the letters, proceeded to state that, pursuant to the express direction of Earl Ferrers, who promised to pay for what was got, Miss Smith had procured from tradesmen various articles of dress, and some books, which she was to regard as presents from his lordship. Miss Smith had shewn the things she obtained to her parents, but had concealed the fact of her being herself liable for the cost. The tradespeople, however, becoming pressing, she was forced to confess the transaction to her father. He immediately wrote himself to the Earl, and received a note (apparently from Earl Ferrers) in reply, saying that the goods should be paid for at once. This, nevertheless, was not done, and the money was ultimately provided by Miss Smith's family. There was one singular circumstance connected with this matter which may as well be given in Mr. Solicitor's own words:—

"Gentlemen, before I conclude this part of the case, I must state to you something connected with the matter of these bills, which of course one cannot look upon but with great regret, and which I think it right to state to you at once, in order that as far as you can condemn this unfortunate young lady, for having in a moment of shame and weakness, given way to a departure from the strict line of what was right, you will do so; but I think it will little become Lord Ferrers, who had exposed her to this discredit, who had brought her into this difficulty, to make it a topic of aggravation, or of reproach against her; it was *this:* I have stated the grandfather advanced the amount of money, the demands were paid, but there were one if not two, there was one at all events which had been

forgotten at the time, a bonnet that had been supplied by a person of the name of Wyman; and Lord Ferrers having authorized the arrangement of these matters, I suppose he had heard nothing on this subject; but sometime after all these transactions, even indeed after the perfidy of Lord Ferrers had become apparent by his marriage with Miss Chichester, and when consequently all the hopes of the father were at an end, and when every kind of unhappiness prevailed throughout the family, it turned out that this Miss Wyman or Mrs. Wyman had supplied a bonnet which had been forgotten, had not been included in the arrangement, and in respect of which a bill was sent in, and some application made to Miss Smith.

"Gentlemen, she had communicated with her father; her father was not a man in good health, he was not able in general to rise until the middle of the day; all these circumstances together operating on a weakly constitution and infirm state of health, had rendered him irritable; he spoke on some occasions, connected with these bills or these demands, in terms of great irritation and indeed of great violence to his daughter; threatened her, and alarmed her, and put her in a state of pain and agitation, which really it is difficult to describe, and in an unfortunate moment she not only concealed from her father that there was this little outstanding bill, I believe only of 30s., due to Miss Wyman, but she positively denied that she had ever ordered the bonnet at all to Miss Wyman. Afterwards, of course, on a little calm reflection, she felt that she had done wrong, and that she would be exposing Miss Wyman to the suspicion of having stated the thing that was not the truth; she confessed, of course, to her father or mother, what the truth was, that she had also ordered this bonnet, that it had not been included in the former settlement because it was forgotten, now it had come forward she was afraid or ashamed to tell her father, so she said the thing that was not; she said she had not ordered the thing at all; but on returning reflection she felt determined to do what was right, and tell the truth, and accordingly the bonnet was paid for. There was an end of that transaction, my friend may make the most of it, he may say: 'this is a young lady who would deceive her own parents,' if he please. I admit she did in a moment of shame, weakness, and terror certainly do so; let my friend make the best of it. The case, Gentlemen, on that point will be in your hands, and although this is a sort of interlude, I introduced it because I had arrived at the letter alluding to it.'

The learned counsel concluded after some further comments on the letters, and a detail of the evidence he was about to call.

The witnesses to the handwriting of the letters produced were the Rev. Mr. Arden, Major Majendie, and Mr. Perkins, the two latter officers with Lord Ferrers in the Staffordshire Yeomanry; also Timothy Colbourne, a former footman of Lord Ferrers, and one Prudence Cotton. Of these, the one who spoke most positively was the clergyman, Mr. Arden, once a chaplain to the Ferrers family, and a companion of the Defendant's. Mr. Arden, however, on cross examination, appeared in a light little creditable to his clerical character. Other witnesses were called to prove their having seen Miss Smith and Lord Ferrers together at various times. Miss Ann Smith, a young sister of the Plaintiff, testified to having observed his lordship in their drawing-room at Easter, 1843, playing the piano, and Miss Smith there also. Upon this, and the other evidence adduced, including that of Mr. and Mrs. Smith, the Attorney General comments in his speech largely, and what is necessary for elucidation will be borrowed from that.

In the opening part of his address for the noble defendant, the Attorney General spoke thus:—

"Gentlemen of the Jury, I agree with my learned friend, the Solicitor General, that there are consequences involved in this inquiry immeasurably beyond the pecuniary amount which is in question between the parties. I admit that you cannot decide this case against the Plaintiff, without dismissing her from the court with disgrace and ignominy. But, Gentlemen, is there nothing to be considered on the other side, with regard to the position of the Defendant, under the alternative of a verdict adverse to him? I may make some excuse; I may have some charitable indulgence for a vain, an imaginative, a lovesick girl, who, dreaming of an affection which does not exist, at last endeavours to turn her dreams into realities; and making the first false step, by attempting to persuade others of the existence of a mutual attachment, is led on from falsehood to falsehood, until it is impossible for her to extricate herself with honour from the difficulties in which she is involved. But what shall we say of the Defendant: upon the supposition of the case which is to be presented to you, and upon which you are called upon to decide in favour of the Plaintiff. To suppose that a nobleman should have engaged the affections of a girl; should afterwards have denied his attachment to her; broken his promise, and used the very tokens of his affection as the means by which he is to fasten upon her the odious crimes of fraud and forgery! This is the painful alternative to which you are reduced in the question which you have to determine. The contest between us has been

well described by my friend, Mr. Chambers, to be *a fearful one.* But, Gentlemen, I cannot agree with the Solicitor General, that we are fighting here with unequal weapons. I acknowledge that rank and fortune are on the side of the Defendant; but I am yet to learn that any advantage is derived from those circumstances within the walls of a Court of Justice. My experience leads me rather to the conclusion, that, from the liberality and generosity of sentiment which distinguish our nation, there is always a sympathy in favour of the weak and the humble; and that so far from any benefit resulting from the superior acquirements of wealth and station in a place where all ought to be upon a level, it but too frequently happens that more than equal justice is dealt out to the superior object of a jury's sympathy. But Gentlemen, I am not in the smallest degree apprehensive that you will regard upon this occasion the station of either of the parties, or that your judgment will be directed by anything but the merits of the case, to be decided on your solemn oaths, upon the evidence before you."

The learned counsel, in continuation, presses strongly on the extraordinary tissue of inaccuracies, falsities, and fictions contained in the letters adduced by the Plaintiff as the correspondence of Lord Ferrers. Facts are there stated which never could have occurred, and persons alluded to who never existed. The letters are addressed from Mivart's Hotel, where Lord Ferrers never stayed, and places of sojourn are spoken of to which he had never been. As to the meeting, most pointedly proved, and most relied on, between Miss Smith and Lord Ferrers, that sworn to by the younger sister, the learned counsel, after commenting on the strange incident of a man in concealment playing the piano, declares that he can prove a clear and positive alibi, Lord Ferrers being with his sister on the road to Welchpool at the time. He promises to produce in court the parties through whose hands Miss Smith stated she got Lord Ferrers' letters, and who will swear that they never received any such letters at all. With regard to the singular question of the bonnet, Mr. Attorney spoke thus:

"But here again I must entreat you just to recall to your recollection the statement which my learned friend the Solicitor General made, with regard to the striking circumstance of the *bonnet. That* was known! it was known precisely what the Miss Wymans had said on the subject. It was therefore necessary for my learned friend to prepare your minds for it; and the statement which he made, and which I took down at the time, of which I have the most lively recollection, was this: that all the bills having been satisfied, there were one or two things which were forgotten; and amongst others, there was a bonnet which had been ordered of Miss

Wyman; that the father, being in an infirm state of health, was extremely irritated and angry about these bills; that the daughter was afraid to reveal the whole truth, and therefore concealed from him the fact of the bonnet having been ordered. This was the statement almost in its very terms.

A Juror. "The cost being 30s.

The Attorney General. "Thank you. The bills had been all satisfied about April, and this bill is supposed to have been forgotten; it is a most remarkable fact; but the bonnet was not ordered till the 22d of June, 1844, not till long after the bills had been satisfied; it was ordered on the 22d of June, and on the 29th of June, 1844, it was sent home, and sent home in a box; which was made, or ordered to be made by Miss Wyman at the request of Miss Smith herself, who gave the order for the bonnet; and then it is plain they instruct my friend to tell you that (it is hard upon him) which proves to be a falsehood. They give an inaccurate and unfaithful representation of a circumstance strikingly important, strongly indicative of fraud. And now let us advance to the consideration of Mrs. Smith's evidence; and I beg that, in future, whenever Mrs. Smith is mentioned in the world, that she may be represented in her own language, and called the '*truthful woman.*' Mrs. Smith states, after considerable hesitation and reluctance, that she went over to Ashby with Mr. Hamel, and with her daughter. Mr. Hamel was in Court, and was vouched for the accuracy of some of her statements; and a Mr. Dewes also, who I believe is a most respectable solicitor. She is asked whether, when she went to Miss Wyman, she did not say, 'Why you have sent me in a bill for a bonnet which I never ordered?' she said she did. She was then asked whether Miss Wyman did not say, 'Why, your daughter ordered it;' which she admitted she did; she was then asked 'Whether her daughter had not over and over again denied having ordered that bonnet,' she hesitated, equivocated, and reluctantly, and at last admitted that she had done so. She was then asked, whether Miss Wyman did not make this extraordinary and striking remark to her, 'Why, Miss Smith, I wonder you are not afraid of being struck dead!' alluding, no doubt, to the awful punishment for falsehood recorded in Scripture. She does not remember whether it was said, but will not swear it was not. She is asked whether she did not say to her daughter, 'Now Mary, acknowledge you have ordered this bonnet, and I will forgive you.' She will not swear she did not say it, but the result is, that that which she will not swear to at all, takes place in the presence of Mr. Hamel. She says over and over again, 'Mr. Hamel will tell you whether what I am stating is correct or not;'

and again, Mr. Hamel sits silent in his seat, and has not the boldness, I had almost said the *honesty*, to present himself as a witness before you. But what takes place? they return to the inn, leaving matters in this unsatisfactory state, and then either Mr. Hamel—now observe! either Mr. Hamel, or Mr. Dewes, goes down and pays for the bonnet. Mrs. Smith is reluctant to give an answer, whether Mr. Hamel, or Mr. Dewes, paid it, or whether she does not know that it was paid; at last she is compelled to admit, but all she states is, she does not know whether it was paid by Mr. Hamel, or Mr. Dewes, which of them it was Mr. Hamel could have told you. It then appears that this bonnet being paid for, after the action had been commenced in January 1845, Mrs. Smith *alone* pays a visit to Miss Wymans, and she admits she said 'I could hardly pass the shop without coming in and apologising for what occurred with regard to my daughter;' and after infinite reluctance, and giving me much greater difficulty than I like to have to get an answer, she admitted she might have said 'Do not relate anything about the bonnet till this affair, or this matter, is over.' And then she will not admit that she gave to the Miss Wymans the whole of the explanation she had received from her daughter; but she says she did mention Mr. Devereux Shirley to them, and she might have given some portion of that explanation. This at once introduces us to the explanation she says she received from her daughter, and upon which most important conclusions depend. Now the Miss Wymans will tell you that in that bonnet box there was no note, or invoice, or paper of any kind. The box arrived at Austrey. Mrs. Smith does not know when it was opened, but it was opened in the presence of her daughter, who presented her, out of that box, with a note, as from Mr. Devereux Shirley, and the explanation which she gave of it was *this:* she had told her parents, originally, that the bonnet was one which Lord Ferrers had sent to her from London. She then tells them, that Lord Ferrers not being able to furnish the money, the 30s., to buy her a bonnet, had desired her to order it for him, but to deceive her parents with the notion that the bonnet came from him, and was not ordered by her. That she refused to do this unless Mr. Devereux Shirley would give her a note to put into the box, and that Mr. Devereux Shirley, at Ashby, put into her hands the note which she afterwards found in the box. Now, then, we have an opportunity of confronting Mr. Devereux Shirley with this young lady. Mr. Devereux Shirley was at that time in Scotland, and had been there with his regiment from March 1843, and never put a note into her hand in his life. Here we are tracing her path; we see the windings of the serpent; we find her capable of falsehood. We now advance to

the next, the all important point—who is *likely to be* the writer of these letters?"

After alluding to the odd fact which came out in evidence, that a Miss Needham, when staying on a visit at the Smiths, remarked that the handwriting in Lord Ferrers' letters bore a strong resemblance to that of Miss Smith, the Attorney General at length comes to the following extraordinary revelation:

"Now," proceeds the learned advocate, "I should have liked very much that somebody should have been called before us who ever saw the contents of any one of these letters; one of them is a very remarkable one; it is the one, the draft of which was prepared by Mr. Smith, was written by him from that draft, which was afterwards destroyed; that was put into an envelope between four and five in the evening: that envelope and the letter were delivered to Mrs. Smith. Mrs. Smith does not recollect whether she sealed it immediately or at a later period of the evening; but the letter was put for the night in a drawer belonging to the bookcase. Now it would be a very strong circumstance indeed, if anybody could have shewn us, following that letter closely, and tracing its course throughout from the hand of Mr. Smith to the hand of my Lord Ferrers; that would have been a conclusive proof of the receipt of that particular letter, which was written by Mr. Smith; but we find that this letter was deposited in a place where, I think, you will have no doubt at all, but that it was accessible to Mrs. Smith, if not to her daughter; and we find that the daughter is capable of a little sleight of hand. We find that she has some dexterity, and some talent for *juggling;* for in the bonnet box, which was sent from the Miss Wymans, in which there was no note from Mr. Devereux Shirley, we find she is capable of *taking out* a note that never was in; and therefore it is just possible that the very letter which was written by Mr. Smith, the father, was not the letter which, if it found its way to Chartley Castle, came into the hands of my Lord Ferrers. But still, I will admit, that these letters put into the post did, with that accuracy which marks the deliveries of our post-office, no doubt all reach their destination, and I did not want the gentleman to-day from the Dead Letter-office, to say, 'If a letter is not taken in, it will be returned; we find the address of the party who wrote it, if we can, and send it back again;' in order to shew you that all these letters must have reached Lord Ferrers' hand, it being sufficiently proved by my production of the handkerchiefs, which are most clearly shewn by Mrs. Smith to have been contained in these letters. Now this looks very awkward. Here we stop short; and we find a case entire and complete against my Lord Ferrers,

We have got letters; some written by the father, many written by the daughter; we have got them put into the post: we have got proof, clear and decisive, that two at least of these letters found their way to the hands of my Lord Ferrers. What can we want more? Will my Lord Ferrers venture to deny after this, that he has carried on a correspondence with this young lady? Will he say this is all pure imagination; that nothing of the kind has ever occurred, and that he has never had any, the slightest intercourse with her of any description? Yes, he will. In the very face of all this, he will *say* it, and what is more, he will *prove* it, and what is more, you will be satisfied he *has* proved it.

"Now then, let us begin to unravel the mystery. We are coming now to the third volume. Gentlemen, you must have been astonished at some of the questions which I put to the mother yesterday; they seemed to be trivial, and almost ridiculous, and not to have the slightest bearing on the question, the important question that you have to decide; why? I was idle enough to make inquiries as to the appearance of the daughter. Whether she was *tall* or *short*, whether she was *dark* or *fair*, whether she had *light* or *black* hair, and other minute and insignificant inquiries of that kind. You must almost have been astonished that I should have condescended to such a course of examination. It was, however, important and useful in the case, to find out that the daughter of Mrs. Smith was *tall*, that she had *black* hair, and very important indeed, although it would appear very trifling, to ascertain precisely what was the mode in which she had dressed herself when she attended the ball at Tamworth. Mrs. Smith, who probably was adorning her for conquest, went to the room of Miss Neville to make some inquiries as to the mode in which she intended to dress her hair, informing her that her daughter was to have a single white rose in *her* hair; this was in the month of January, 1843. The daughter attended the ball at Tamworth; in her dark hair was a single white rose; and she thought of my Lord Ferrers, and dreamt that he might possibly be there, although she was not certain; and she communicated her anxieties and her wishes to her mother, but my Lord Ferrers never appeared.

Well, now what has all this to do with the case? Why are you telling us (you will say) this story about the ball, and about her dress, and about her appearance, and about Lord Ferrers, and whether he was at the ball or not? What does it signify in the case? everything! it is of the greatest importance; but I like to reserve my secret as long as I can, and I am almost sorry that I am obliged now to make a clean breast, and tell you everything. Gentlemen, Lord Ferrers returned from the Continent

in the month of September, 1842, and in two days after his arrival, by his grandfather's death, he came to the title. Very soon after his return from abroad, he received, at different times, a variety of *anonymous* letters, evidently the production of a lady, all in the same hand, all breathing strains of the most ardent affection. He was not aware who this fair correspondent could be; he did not place the value on these letters which, if he had known what was likely to occur, he would have done, for he was rash enough to throw many of them behind the fire; and when it became important, as it did, to search for any that might have escaped destruction, melancholy to relate, only four, after the most careful search, could be found; but those four are not without their value; indeed, I almost think they are like the sibyls' books, they become more valuable from being fewer. Mrs. Smith has told us that her daughter began her correspondence with Lord Ferrers very soon after his arrival from abroad, and that the first letter she sent after his return was from *Derby*; it was put into the Derby post-office. One was obliged to be a little guarded and cautious in this case, not to reveal everything at once, but to approach stealthily almost, and by degrees, and with cautious steps to one's object. I had before me at the time of Mrs. Smith's examination, two letters which had been received by Mrs. Cann, who has been mentioned as formerly Miss Needham, being the lady who marked one of the pocket handkerchiefs; and I had besides, the four anonymous letters, which were the only ones which had been saved, as I told you, from destruction. I presented, in the first place, to Mrs. Smith, one of the letters which had been received by Mrs. Cann; 'Do you believe that,' I said, 'to be your daughter's handwriting?' after a little hesitation, she said, 'she did.' I then gave her one of the anonymous letters, beginning 'Dearest Washington.' and I asked her whether that was her daughter's handwriting; she said, 'It was.' I then, in succession, put each anonymous letter into the hands of Mrs. Smith, and from her I received the same answer. She proved them *all* to be in her daughter's handwriting. Now we are approaching very nearly to the *dénouement*.

"The first letter to which you will have the kindness to attend, the first letter which she wrote after his return from abroad—you will remember Lord Ferrers returned at the end of September 1842—is said by Mrs. Smith to have been put into the *Derby* post office. The letter I am about to read is dated December 19th, 1842, and is in these words: 'My Lord,—Strange it may seem to you, no doubt, to receive a note from a stranger, and a lady too, but it signifies little to me, as I well know you will never know the writer of this letter, never see her; now for what I have

to tell you, it is this: there is a public ball at Tamworth every Christmas, generally about the 6th or 8th of January, go, I advise you, go; there will, to my knowledge, be a young lady at the ball, who I wish you to see and dance with; she is very beautiful, has dark hair and eyes, in short, she is haughty and graceful as a Spaniard, tall and majestic as a Circassian, beautiful as an Italian. I can say no more, you have only to see her to love her; that you must do; she is fit for the bride of a prince. Go, look well round the room, you will find her by this description; *she may wear one white rose in her dark hair;* go early; if you see her not there, you will never see her, as she is like a violet hid midst many leaves, only to be found when sought for. I know she is young, and it is my wish she should have some one to protect her. From what I have heard, you must be that one, you and you alone; it is your destiny; therefore go at all risks. You will then be of age, with nothing to prevent you. I sometime knew your father. By the time you receive this I shall be on my way to (*blank*) far away. *I have put this in the Derby post-office;* burn it when read, shew it to no one. Keep your own counsel, my Lord, and deem yourself happy in the idea of knowing one so talented, beautiful and young. Ask her to dance with you; fear not. And now I have fulfilled my mission, and shall rest in peace, more peaceful, though, did I know that you would meet this bright young girl. If you, like other men, love beauty, you will love her. Adieu, burn this letter, and remember she is my legacy to you. You have hurt your hand, I hear; I am sorry: farewell for ever. Isabel.' Do you understand the case *now*? Have I kept my faith with you? have I redeemed the pledge which I made in the opening of this case, that, however dark and mysterious it might appear, I would disperse all the shadows, and present it clearly and distinctly to your view! Here you have the very letter proved by the mother to be in her daughter's handwriting, put into the very post-office described by the mother, exciting the curiosity of my Lord Ferrers by a minute, I am afraid not a faithful, description, except so far as the white rose and dark hair are concerned, of herself, endeavouring to procure an interview with him, addressing a letter with all that ingenuity which now it is shewn she is in possession of; and I now ask you whether, when I have admitted that letters were from time to time received by Lord Ferrers, directed to him—ay, and letters containing handkerchiefs too, which handkerchiefs I have produced, you have the slightest doubt that this artful girl, deceiving some, assisted, I fear by others, has been contriving, from the beginning to the end, a scheme of the most arrant

falsehood, and of the grossest and most scandalous iniquity; and that, but from the various accidental circumstances which have intervened to shew where the truth is, and to protect justice and right, Lord Ferrers would have fallen a victim to the snares with which he was encompassed, his honour blasted, his reputation gone, and what would have been of trifling importance, his wealth invaded by this infamous attempt to forge and to fasten an engagement upon him.

"Gentlemen, I can prove, with regard to one of the letters, that a handkerchief came in it, and that it was an anonymous letter. I cannot prove it with regard to both; but I will prove these four different letters, which are in the handwriting of Miss Smith, to have come out of the possession of my Lord Ferrers; I will shew you, that when he was in town, and upon the very eve of his marriage, the anonymous letters continued, and that on the very day on which he was married, in the presence, I believe, of the mother of his bride, he actually received one of them, which he unfortunately destroyed, not contemplating that, so soon after that event, he would be called upon to defend himself against an action of this description, and would want all the proof which these extraordinary productions so strikingly afford.

"Now, just let me pass to some of the others. Gentlemen, here is another letter, dated June the 5th, also proved by Mrs. Smith to be her daughter's handwriting: 'Washington, beloved one, when shall I see you; when behold the form of one dear to me, how dear! I will not say how often I wish for you. Hope lingers on, days pass away, and, alas! I only hear of you; you, whom some whisper strange things of; I believe them not, it cannot be; you must be high-minded, noble, generous, good; so have I fancied you; oh, that it may not be fancy only. You are young, and have no father or mother to guide your steps. The world, I am told, is deceitful and wicked;' who told her that? 'you have no one to advise you, to whisper words of affection and love; to watch over and be with you. You have some wealth and rank; if these could constitute happiness, then you might be happy; but your household hearth is not warmed by affection. Do you never feel lonely, nor wish for others but the gay and wild young men with whom you associate? Is there never a blank found in your heart? Do you never sigh for one to love you, one whom you could put faith and trust in? Guardians you have had; they may still advise you, but they have their own, their children. You, my frequent thought, the one whom I cannot help but love, though apparently that one a stranger. Surely it seems fate. I cannot tear you from my heart, your image is ever present there;

your welfare first thought of. Report says, you are going to wed with a lady of Wales; if so, may you be blessed and happy. I am aware we may never meet, never join hands together: and yet I cannot forget you. My heart of hearts,' so she calls it, 'is yours, and with you will rest. I can never love another, never give my hand without my heart. I am no Welsh lady.' I think the people of Wales may be rather gratified at that. Oh! I do not like what follows: 'but an English-woman.' She mentioned something of an Italian in a former letter. 'In thought and action, word and deed, and as an English-woman, do I love you, think of you. They say that the blood of a Ferrers is not good, and that the generations of the Shirleys have mostly been men of ignoble minds, with one or two exceptions. Washington, add to the honour of your family; disgrace not further your name. What would I give to see you now, to be with and near you always. Alas! in secret I write to you, in secret love you; would we could meet.' *Meet!* Why, in the spring of 1843 he had been under Mr. Smith's roof; at least, the little girl told us she had seen him in the drawing-room there, leaning on the mantel-piece for five minutes, and her sister with him. 'Do you never visit Staunton? will you not be there after the approaching Lichfield review, alone? Beloved one, adieu, adieu, ever, ever, your friend, *Marie.*"

The other letters are in the same strain. After commenting on them, the Attorney General thus speaks in conclusion:

"My task is done; the case is proved to the very letter. And now, then, ask yourselves, knowing that Lord Ferrers could not by any possibility have written the letters which are imputed to him, and upon which the promise is to be attached: Ask yourselves *who* is the person who wrote those letters; *who* forged and fabricated them for the purpose of making him responsible? The likeness of the letters to Miss Smith's handwriting has already been proved by the mother; it struck Miss Neville immediately. That lady was also struck with the handwriting of the anonymous letters which have been proved by the mother to be her daughter's. Talk of internal evidence, indeed! Look at the internal evidence to be extracted from these anonymous letters, and tell me whether you scarcely require distinct and direct proof of the handwriting; whether the incidents themselves would not almost confirm the fact that they are the writing of the Plaintiff. Shall I then hesitate to arrive at the conclusion to which I am necessarily led by all these circumstances, step by step, and without a moment's pause? If I am required to say, You 'tell us that Lord Ferrers was not the writer of these letters; you say that the evidence is complete upon that subject, tell us then whom

you mean to fasten them upon; whose you say was the hand, who the instrument that has fabricated them against him?' I say at once, fearlessly, they were written by Miss Smith herself, and they were written by her, artful and ingenious as she has shewn herself to be, under circumstances which mark the danger of once deviating from the paths of truth. Having flattered herself for some time that she might warm the heart of my Lord Ferrers, turning her day dreams into realities, inventing, perhaps innocently and unintentionally almost at first, the notion of his having given her any proofs of his attachment, and then finding herself so far involved as to be compelled to advance in the career of wickedness to prop up one falsehood by resorting to twenty others, and thus to weave her intricate web, in which, but for the most unexpected and providential circumstances, my Lord Ferrers must have been entangled, and from which he would in vain have attempted to escape."

Some evidence was then adduced on the part of the defendant, to disprove the handwriting of Lord Ferrers in the letters produced by the Plaintiff. While this was going on, the Solicitor General came into court, and stated that in consequence of the four anonymous letters coming perfectly by surprise on the parties engaged for the Plaintiff, and on the members of her family, and in consequence of his being unable to explain them, he would elect that Miss Smith be nonsuited.

Thirteen of the letters produced by the Plaintiff, and the four letters tendered by the Defendant, were, at the request of the respective parties, impounded in court, Mr. Justice Wightman thus observing to the Jury:

"Gentlemen, unless those four letters are most amply accounted for and explained, it is impossible to believe that the letters purporting to be those of the Defendant could have been his: it is quite impossible!

The Plaintiff was then nonsuited.

It may be right to here state that Miss Smith has since brought out a pamphlet intituled "A Statement of Facts respecting the cause of Smith v. The Earl Ferrers," published by John Ollivier, 59, Pall Mall, in 1846.

THE END.

LONDON:
Myers & Co., Printers, 16, Hart Street, Covent Garden.

3 2044 018 888 974

THE BORROWER WILL BE CHARGED AN OVERDUE FEE IF THIS BOOK IS NOT RETURNED TO THE LIBRARY ON OR BEFORE THE LAST DATE STAMPED BELOW. NON-RECEIPT OF OVERDUE NOTICES DOES NOT EXEMPT THE BORROWER FROM OVERDUE FEES.

Harvard College Widener Library
Cambridge, MA 02138 (617) 495-2413

SEP 10 1996
BOOK DUE

NOV 17 1993

SEP 10 1994